FEDERAL REGISTER

VOLUME 6 NUMBER 225

Washington, Wednesday, November 19, 1941

The President

CONTROL OF PERSONS ENTERING AND LEAVING THE UNITED STATES

CORRECTION OF PROCLAMATION

A corrected line of type was substituted for the wrong line resulting in a misprint in paragraph (7) on page 5822 of the issue for Tuesday, November 18, 1941. Paragraph (7) should read as follows:

(7) Except as provided herein or by rules and regulations prescribed hereunder, the provisions of this proclamation and the rules and regulations issued in pursuance hereof shall be in addition to, and shall not be held to repeal, modify, suspend, or supersede any proclamation, rule, regulation, or order heretofore issued and now in effect under the general statutes relating to the immigration of aliens into the United States; and compliance with the provisions of this proclamation or of any rule or regulation which may hereafter be issued in pursuance of the act of May 22, 1918, as amended by the act of June 21, 1941, shall not be considered as exempting any individual from the duty of complying with the provisions of any statute, proclamation, rule, regulation, or order heretofore issued and now in effect.

Rules, Regulations, Orders

TITLE 8—ALIENS AND NATIONALITY

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE

[General Order No. C-35]

CHANGES IN FORM NUMBERS, CITATIONS AND OTHER PROVISIONS OF TITLE 8, CHAPTER I, CODE OF FEDERAL REGULATIONS

NOVEMBER 14, 1941.

Pursuant to the authority contained in section 23 of the Act of February 5, 1917 (39 Stat. 892; 8 U.S.C. 102); section 24 of the Act of May 26, 1924 (43 Stat. 166; 8 U.S.C. 222); section 1 of Reorganization Plan No. V (5 F.R. 2223); section 37 (a) of the Act of June 28, 1940 (54 Stat. 675; 8 U.S.C. 458); section 90.1, Title 8, Chapter I, Code of Federal Regulations (5 F.R. 3503), and all other authority conferred by law, the following changes in Title 8, Chapter I of the said regulations are hereby promulgated.

The references to form numbers which appear in the following sections of Chapter I of the said regulations are changed in accordance with the following table. The changes in such form numbers, however, shall not preclude the use of the old forms until such time as present supplies of such forms are exhausted.

Sections	Old form numbers	New form numbers
107.2	500	I-400
	630	I-430
107.4	628	I-428
107.9	500	I-400
	500-A	I-401
	500-B	I-402
	500-C	I-403
107.10	630	I-430
	630a	I-431
	630b	I-432
	630c	I-433
107.11	628	I-428
107.12	542	I-442
107.17	548	I-448
110.33	636	I-336
	637	I-337
	638	I-338
114.2	521	I-121
	548	I-448
114.3	521	I-121
	548	I-448
114.4	521	I-121
	548	I-448
114.5	521	I-121
	548	I-448
120.8	680	I-480
	689	I-489
120.9	680	I-480
120.14	751	I-198
120.15	699	I-199
125.1	513	I-113
125.2	535	I-535
125.4	St. 17	I-17
125.6	St. 17	I-17
128.2	546	I-146
142.11	548	I-448
142.16	548	I-448
153.2	597	I-287
153.3	597	I-287
153.4	597	I-287
165.1	633	I-133
165.3	631	I-131
165.12	639	I-539
168.10	A-2213	N-300
	A-2214	N-400
	160-Im.	N-215
	161-Im.	N-210
	505	I-404
	526-B	N-230
168.11	575	I-475
170.4(1)(12)	A-2213	N-300
	A-2214	N-400
172.8	517	I-117

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THE PRESIDENT

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FEDERAL REGISTER

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CONTENTS—Continued

The next to the last word in § 90.1 is changed from "Naturalization" to "Nationality".

Section 90.13 (j) is amended to read as follows:

§ 90.13 *Deputy commissioner in charge of the legal branch; powers.*

* * * * *

(j) To consider and determine applications for exemption from loss of residence for naturalization purposes under section 307 (b) (c) of the Act of October 14, 1940;

Section 90.13 (k) is amended to read as follows:

(k) To order the cancelation of registry fraudulently or illegally procured under the Act of March 2, 1929, as amended, or section 328 (b) of the Act of October 14, 1940;

Section 90.15 (e) is amended to read as follows:

§ 90.15 *Chief of the certification branch; powers.*

* * * * *

(e) To grant or deny registry under section 328 (b) of the Act of October 14, 1940.

Section 105.3 (h) is amended to read as follows:

(h) *Commuters.* Aliens who, without taking up residence in the United States, habitually cross and recross the land boundaries and who hold a Resident Aliens' Border Crossing Identification Card;

Section 105.3 (l) is amended by changing the figures "120.21" appearing therein to "120.20".

Section 107.9 is amended by deleting from that section the words "Government Printing Office issue of November 1924".

Section 107.17 is amended by changing the citation of authority appearing at the end of the section to read as follows:

(Sec. 12, 39 Stat. 882; Sec. 3, 43 Stat. 154, 47 Stat. 607, 54 Stat. 711; sec. 328 (a), 54 Stat. 1151; 8 U.S.C. 148, 203, 728a)

Section 110.1 is amended by changing the headquarters for District No. 6 from Jacksonville, Florida, to Miami, Florida.

Sections 110.11 and 110.12 are canceled.

Sections 110.20 to 110.26, inclusive, are canceled.

Section 110.37 is amended to read as follows:

§ 110.37 *Nonquota status on basis of former residence.* (a) An alien claiming to be a nonquota immigrant on the ground that he has previously been lawfully admitted to the United States and is returning from a temporary visit abroad shall not be admitted as such unless at the time of arrival he shall establish that he has previously been lawfully admitted for permanent residence, is returning from a temporary visit abroad, and presents such valid documents as may be necessary under the terms of an outstanding Executive Order or Orders prescribing documents required of aliens entering the United States, or a waiver of such documents has been granted by the Secretary of State under the circumstances present in his case.

(b) The following described aliens who on admission expressed an intention of remaining but temporarily in or passing in transit through the United States, of whose admission a record exists, and in whose cases a head tax was assessed, if assessable, and not refunded, but who remained in the United States, may be regarded as having been admitted for permanent residence:

(1) Aliens admitted prior to June 3, 1921, except that aliens of these classes admitted temporarily under the 9th proviso to section 3 of the Immigration Act of 1917, will not be regarded as having been admitted for permanent residence;

(2) Aliens admitted under the Act of May 19, 1921, as amended, who were of a class admissible for permanent residence under that Act notwithstanding the quota limitations of that Act;

(3) An accompanying wife or unmarried child under 21 years of age of an alien admitted under the Act of May 19, 1921, as amended, who was of a class admissible for permanent residence under that Act notwithstanding the quota limitations of the Act; and

(4) Aliens charged under such law to the proper quota at time of admission or subsequently and who remained so charged. (Secs. 4, 23, 43 Stat. 155, 165; 8 U.S.C. 204, 221; E.O. 8766, June 3, 1941, 6 F.R. 2741)

The last sentence of § 110.38 is amended to read as follows: Nothing in this section shall be deemed to preclude an alien qualified to do so from applying for registry under section 328 (b) of the Act of October 14, 1940 (54 Stat. 1152; 8 U.S.C. 728b).

The citation of authority appearing at the end of § 110.38 is amended by deleting "E.O. 7865, Apr. 12, 1938, 3 F.R. 753".

Section 110.39 is amended by deleting the last two sentences of this section and

by changing the citation of authority at the end of the section to read as follows:

(Secs. 4 (c), 23, 43 Stat. 155, 165; 8 U.S.C. 204 (c), 221)

Section 114.3 is amended by eliminating the sentence "Form 514, when applicable, shall be prepared except as to date and signature, and shall be completed upon the actual admission of the holder."

Section 118.2 is amended by deleting from the citation of authority at the end of the section "E.O. 7865, Apr. 12, 1938, 3 F.R. 753".

Section 120.7 is amended by deleting the citation of authority appearing at the end of the section.

Section 120.38 is amended by changing the citation of authority at the end of the section to read:

(E.O. 8429, June 5, 1940, 5 F.R. 2145)

Section 120.39 is amended by changing the citation of authority at the end of the section to read:

(E.O. 8429, June 5, 1940, 5 F.R. 2145)

Section 120.41 is amended by changing the citation of authority at the end of the section to read:

(Sec. 35, 39 Stat. 896; 41 Stat. 1082; Sec. 20, 43 Stat. 164; 8 U.S.C. 167, 169, 170; E.O. 8429, June 5, 1940, 5 F.R. 2145)

Section 128.4 is amended by eliminating "in accordance with §§ 150.1–150.4, 150.6, 150.8–150.31, 150.35–150.49,".

Section 165.4 (b) is amended to read as follows:

(b) Persons who have been registered under the Act of March 2, 1929, as amended, or section 328 (b) of the Act of October 14, 1940; and.

Section 165.6 is amended to read as follows:

§ 165.6 *Permit to re-enter; application for; procedure.* When an application is presented in person, the applicant will be carefully questioned to determine whether he is entitled to a re-entry permit. If the examining officer has reason to believe that any irregularity is involved, a written question and answer statement will be taken. The officer in charge will forward the application direct to the Central Office, together with the fee, photographs, statement of the applicant, if one is taken, and any information obtained concerning applications filed other than by personal appearance. At the same time, in those cases where applications are required to be filed at field offices, the officer in charge will request the port of arrival, by use of Form I–413, to forward on that form direct to the Central Office the facts of arrival. Any claim made in addition to, or in substitution for, any of those contained in the original application must be made and filed under oath and in the manner required in filing the original application and will be subject to the same interrogation or investigation as those set forth in the original application. (Sec. 10, 43 Stat. 158; 8 U.S.C. 210)

Section 168.21 is amended to show the headquarters of District No. 6 as Miami, Florida, and of District No. 11 as Kansas City, Missouri.

Part 174 entitled "Voluntary Emigration of Certain Filipinos from the United States", is hereby canceled.

General Orders No. C–9, of March 21, 1939 (4 F.R. 1292) and No. C–13, of August 28, 1939 (4 F.R. 3768) are hereby canceled.

LEMUEL B. SCHOFIELD,
Special Assistant to the Attorney General in Charge.

Approved:

FRANCIS BIDDLE,
Attorney General.

[F. R. Doc. 41–8625; Filed, November 18, 1941; 11:35 a. m.]

TITLE 14—CIVIL AVIATION

CHAPTER I—CIVIL AERONAUTICS BOARD

[Amendment 20–22, Civil Air Regulations]

PART 20—PILOT RATING

PHYSICAL CONDITION

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 14th day of November 1941.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205, 601, and 602 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective December 1, 1941, Part 20 of the Civil Air Regulations is amended as follows:

1. By amending § 20.124 to read as follows:

§ 20.124 *Physical condition.* Same as in § 20.104.

By the Civil Aeronautics Board.

[SEAL] DARWIN CHARLES BROWN,
Secretary.

[F. R. Doc. 41–8607; Filed, November 18, 1941; 9:32 a. m.]

[Amendment 61–18, Civil Air Regulations]

PART 61—SCHEDULED AIR CARRIER RULES

ALTITUDE RECORDING DEVICE REQUIRED

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 14th day of November 1941.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a), 601 and 604 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under said Act, the Civil Aeronautics Board hereby amends the Civil Air Regulations as follows:

Effective December 1, 1941, Part 61 of the Civil Air Regulations is amended as follows:

By striking the words "January 1, 1942", appearing in the third line of § 61.341 and by inserting in lieu thereof, the words, "April 1, 1942", so that said section shall read as follows:

§ 61.341 *Altitude recording device.* No aircraft with gross weight in excess of 10,000 pounds shall be operated in scheduled air transportation of passengers after April 1, 1942, unless it is equipped with a device or devices which make a record of the altitude of the aircraft and the use of the aircraft's radio transmitter at all times during flight. This device shall be so constructed and installed as to afford substantial protection of the record in the event of an accident to the aircraft. (Secs. 205 (a), 601, 604, 52 Stat. 984, 1007, 1010; 49 U.S.C., Sup., 425 (a), 551, 554)

By the Civil Aeronautics Board.

[SEAL] DARWIN CHARLES BROWN,
Secretary.

[F. R. Doc. 41–8606; Filed, November 18, 1941; 9:33 a. m.]

TITLE 20—EMPLOYEES' BENEFITS

CHAPTER II—RAILROAD RETIREMENT BOARD

PART 209—MILITARY SERVICE

DEFINITIONS OF WAR PERIODS AMENDED

Pursuant to the general authority contained in section 10 of the Act of June 24, 1937 (Sec. 10, 50 Stat. 314; 45 U.S.C. Sup. III, 228j), as amended by Title VI, Part II, sections 625 and 626 of Public No. 801, 76th Congress, Chapter 757, 3d Session, approved October 8, 1940, section 209.12 (b) of the Regulations of the Railroad Retirement Board under such Act (5 F.R. 4736) is amended, effective October 8, 1940, by Board Order 41–472 dated November 13, 1941, to read as follows:

§ 209.12 *Military service; war service period; war period.*

* * * * *

(b) *War period.* A war period begins on the date on which the Congress of the United States declared war, or on the date as of which the Congress of the United States declared a state of war to have existed, or on the date on which war was declared by one or more foreign states against the United States, or on the date on which any part of the United States or any territory under its jurisdiction was invaded or attacked by any armed force of one or more foreign states, or on the date on which the United States engaged in armed hostilities for the purpose of preserving the Union or of maintaining in any State of the Union a republican form of government, whichever date is the earliest. A war period ends

on the date on which hostilities shall have ceased.

(1) *Spanish American War.* The war period of the Spanish American War began April 21, 1898 and ended August 13, 1898.

(2) *Philippine Insurrection.* The war period of the Philippine Insurrection began February 4, 1899 and ended April 27, 1902.

(3) *World War.* The war period of the World War began April 6, 1917 and ended November 11, 1918. (Sec. 625, Title VI, Part II, Public No. 801, 76th Cong., Chap. 757, 3d Sess., approved October 8, 1940)

By Authority of the Board.

[SEAL] JOHN C. DAVIDSON,
Secretary of the Board.

Dated: November 17, 1941.

[F. R. Doc. 41-8623; Filed, November 18, 1941; 10:44 a. m.]

TITLE 30—MINERAL RESOURCES

CHAPTER III—BITUMINOUS COAL DIVISON

[Docket No. A-1095]

PART 332—MINIMUM PRICE SCHEDULE, DISTRICT NO. 12

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 12 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR CERTAIN COALS PRODUCED IN DISTRICT NO. 12

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for coals produced by certain mines in District No. 12; and

The Director finding that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with this Division in the above-entitled matter; and

The Director deeming this action necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith, § 332.2 (*Alphabetical list of code members*) is amended by adding thereto Supplement R, and § 332.24 (*General prices in cents per net ton for shipment into all market areas*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless the Director shall otherwise order.

No prices are established herein for the coals of the W. M. P. Coal Company Mine (Silas Jacoby) Mine Index No. 625 of the W. M. P. Coal Company for all shipments except truck because Price Classifications and Effective Minimum Prices For All Shipments Except Truck have been established previously for the coals of this mine in Dockets No. A-675 and A-873.

Dated: October 30, 1941.

[SEAL] H. A GRAY,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 12

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 332, Minimum Price Schedule for District No. 12 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 332.2 *Alphabetical list of code members*—Supplement R

[Listing of code members, mines, mine index numbers and mine origin groups (for delivery by railroad)]

Mine index No.	Code member	Mine	Mine origin group	Originating railroad	Mine origin group No.
552	Carter Coal Company (Lewis Carter)	Carter Coal Company*	Chariton	CRI&P	64
785	Ellis, Earl (Kinser Valley Coal Co.)	Kinser Valley*	Wayside	ISU	70
783	Molloy, Jack (Jack Molloy Building Material & Coal Company).	No. 1*	Bussey	CB&Q—Wabash	31
782	Ritter, Clarence C	Clarence Ritter*	Newton	CRI&P	71
784	Shamrock Coal Company (Curt Ellis)	Shamrock*	Rathbun	CMStP&P	20

*Indicates Mines shipping via public sidings and ramps for railway delivery.

FOR TRUCK SHIPMENTS

§ 332.24 *General prices in cents per net ton for shipment into all market areas*—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine name	Mine No.	Group No.	County	Chunk	Standard lump	Egg 8 x 2", 6 x 2"	Small egg 4 x 2", 3 x 1½"	Mine run	Nut 2 x 1¼", 1¼ x ¾"	Dom. stoker 1¼", 1 x 5/16"	Screenings 2", 1½", 1¼ x 0"	Ind. stoker, cr. 2", 1½", 1¼" x 0	5/16" x 0
					1	2	3	4	5	6	7	8	9	10
Brown & Ferrell Coal Company (C. D. Brown).	Brown & Ferrell	777	25	Polk	370	360	350	340	300	325	330	200	260	100
Ellis, Earl (Kinser Valley Coal Co.)	Kinser Valley	785	11-A	Monroe	300	290	280	270	270	270	270	180	240	100
Molloy, Jack (Jack Molloy Building Material & Coal Company).	No. 1	783	18	Marion	300	290	280	270	270	270	270	160	220	100
Ritter, Clarence C	Clarence Ritter	782	27	Jasper	345	335	325	315	300	300	300	190	250	100
Shamrock Coal Company (Curt Ellis).	Shamrock	784	3	Appanoose	285	275	265	255	275	265	275	200	275	100
Wilcox, Wm	Ankeny	772	34	Taylor	352	342	342	342	342	332	332	242	332	150

[F. R. Doc. 41-8595; Filed, November 17, 1941; 11:38 a. m.]

PART 335—MINIMUM PRICE SCHEDULE, DISTRICT NO. 15

[Docket No. A–1075]

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 15 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 15

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 15; and

The Director finding that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The Director deeming his action necessary in order to effectuate the purposes of the Act;

Now, therefore, it is ordered, That, pending final disposition of the above-entitled matter, temporary relief be, and it hereby is, granted as follows: Commencing forthwith, § 335.5 (*Alphabetical list of code members*) is amended by adding thereto Supplement R, and § 335.24 (*General prices in cents per net ton for shipment into all market areas*) is amended by adding thereto supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

The original petition in this matter requests the establishment of price classifications and minimum prices for the coals of the Spenny Mine, operated by Oval Spenny, and for the coals of the Spenny Mine, operated by M. R. Spenny. The records of this Division indicate that there is but one Spenny Mine and that M. R. Spenny (Spenny Coal Co.) operator of the Spenny Mine (Mine Index No. 1481) is the successor of Oval Spenny, former operator of such mine in Production Group No. 3, Audrain County, Missouri. Accordingly, the minimum prices established for the coals of the Spenny Mine (Mine Index No. 1481) in the attached schedule designated "Supplement T" are set forth opposite the name of M. R. Spenny, the successor code member.

The original petition identifies the operator of the Porter Mine (Mine Index No. 900) in Production Group No. 11 in District No. 15, as the Porter Coal Co. However, the records of this Division disclose that such operator has been succeeded by the Wagoner County Coal Co., c/o L. A. Blevans. Accordingly, the relief requested as to the coals of that mine is extended herein to the Wagoner County Coal Co., c/o L. A. Blevans.

No relief is granted herein for the coals of the Yake Mine operated by Yake and Burnett (John Yake) in Production Group No. 3, Callaway County, Missouri, since the requested minimum prices for those coals were established under the previous name of that mine, Stark Coal Co., by the Order of January 11, 1941, in Docket No. A–476, 6 F.R. 567.

No relief is granted herein for the coals of the Burnett Mine operated by the Latimer County Coal Co., in Production Group No. 8, Latimer County, Oklahoma, since those coals are classified and priced for rail shipment in Price Schedule No. 1 for District No. 15, under the name of the Burnett Coal Co., the previous operator of that mine (Mine Index No. 143).

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless the Director shall otherwise order.

Dated: November 1, 1941.

[SEAL] H. A. GRAY,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 15

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 335, Minimum Price Schedule for District No. 15 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 335.5 *Alphabetical list of code members*—Supplement R

[Alphabetical list of code members showing price classification by size group for domestic, commercial and industrial use]

Mine index No.	Code member	Mine name	Product group No.	Shipping point	Railroad	Freight origin group No.	Price classification by size group													
							1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1501	Askew, Hughey		8	Wilburton, Okla	M-K-T	101	A	A	A	A		A		A	A	A				A	
1494	Cairo Coal Company (J. R. Evans)	Cairo Coal Co	3	Cairo, Mo	Wabash	200	A	A	A	A	C	C	C	C	A	C	A	A		A	A
1095	Gritus-Speights Coal Company (J. W. Speights)	Mosco	8	North McAlester, Okla.	M-K-T	101	A	A	A	A		A		A	A	A				A	
1483	Miles, Dorsey	Miles	3	Moberly, Mo	Wabash	111	A	A	A	A	C	C	C	C	A	C	A	A		A	A
155	McAlester-Alderson Coal Company	No. 1	7	Haileyville, Okla	CRI&P	100	A	A	A	A		A		A	A	A				A	
643	Randle, Horace (Randle Coal Co.)	Randle	4	Richmond, Mo	AT&SF	160	A	A	A	A	A	A	A	A		A	A	A		A	A
916	Rizzazi & Bettine (Frank Betting)	R. B	8	Hartshorne, Okla	CRI&P	100	A	A	A	A		A		A	A	A				A	
900	Wagoner County Coal Co., c/o L. A. Blevans	Porter	11	Porter, Okla	M-K-T	170	A	A	A	A		A		A	A	A	A			A	
1052	Westbrook Coal Co. (Pat McAllister)	Westbrook	8	Krebs, Okla	M-K-T	101	A	A	A	A		A		A	A	A				A	

"A" is Market Area list price as listed in Price Schedule No. 1; C, minus 10 cents from list price.

FOR TRUCK SHIPMENTS

§ 335.24 *General prices in cents per net ton for shipment into all market areas*—Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine index No.	Mine	Product group No.	County	3" lump	½" up	10" x 1½"	10" x 1¼"	3" x 2"	3" x 1¼"	2" x 1¼"	1¼" x 1"	Mine run	3" x 0	1¼" x ⅜"	1¼" x ¼ (R)	1¼" x 0 (W)	1¼" x 0 (R)	¼" x 0
					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Askew, Hughey	1501		8	Latimer, Okla	435	435	435	385		335		210	295	165				140	
B. & E. Coal Co. (Edwin E. Hartwig)	1479	B. & E.	5	Lafayette, Mo	285	285	285	285	275	255	245	220	285	205	220	205		125	35
Blair Coal Company, Dave	1506	Dave Blair	4	Ray, Missouri	285	285	285	285	275	255	245	220	285	205	220	205		125	35
Brantegem & Solomon (E. Brantegem)	1495	Brantegem & Solomon	3	Randolph, Mo	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Cairo Coal Company (J. R. Evans)	1494	Cairo Coal Co	3	Randolph, Mo	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Carpenter, J. I. (A. B. C. Coal Company)	1493	No. 1	1	Crawford, Kans	260	260	260	260	235	220	205	210	220	195	170	155	155	135	35
Jackson, Everette	1492	Jackson	3	Howard, Mo	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Magic City Coal Company	1505	Warner	11	Muskogee, Okla	330	330	330	300		270		160	220	140	150			115	
Martin, Roy A	1491	Martin Coal Co	1	Cedar, Mo	260	260	260	260	235	220	205	210	220	195	170	155	155	135	35
Miles, Dorsey	1483	Miles	3	Randolph, Mo	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Nelson, Earl (Nelson Coal Company)	1482	Number 1	1	Barton, Mo	260	260	260	260	235	220	205	210	220	195	170	155	155	135	35
Neuenschwander, C. E	1490		2	St. Clair, Mo	250	250	250	250	225	210	195	190	210	185	185	170	170	150	35
Smith, George	1489	Chas. Palmer	3	Boone, Mo	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Spenny, M. R. (Spenny Coal Co.)	1481	Spenny	3	Audrain, Mo	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35
Steele, Wayne	1480	Steele	3	Putnam, Mo	230	220	230	230	230	215	200	190	230	185	210	195		135	35
Ware, Gabriel	1488	Ware	5	Lafayette, Mo	285	285	285	285	275	255	245	220	285	205	220	205		125	35
Wilson, J. C	1487	Wilson	3	Putnam, Mo	230	230	230	230	230	215	200	190	230	185	210	195		135	35
Wise, Frank J	1484	Wise Banner	3	Boone, Mo	230	230	230	230	215	205	195	185	210	180	185	170	170	110	35

[F. R. Doc. 41-8596; Filed, November 17, 1941; 11:38 a. m.]

[Docket No. A-228]

PART 336—MINIMUM PRICE SCHEDULE, DISTRICT NO. 16

MEMORANDUM OPINION APPROVING AND ADOPTING THE PROPOSED FINDINGS OF FACT AND PROPOSED CONCLUSIONS OF LAW OF THE EXAMINER AND ORDER GRANTING RELIEF IN PART IN THE MATTER OF THE PETITION OF CAPROCK FUEL COMPANY, A CODE MEMBER IN DISTRICT NO. 16, FOR MODIFICATION OF THE EFFECTIVE MINIMUM PRICES ESTABLISHED FOR ITS COALS IN SIZE GROUPS 1–6, INCLUSIVE, AND 8–13, INCLUSIVE WHEN SHIPPED BY TRUCK TO MARKET AREAS 217 AND 218, FOR SPECIAL DEDUCTIONS IN SIZE GROUPS 11 AND 12 FOR SALES TO THE VALMONT PLANT OF THE PUBLIC SERVICE COMPANY OF COLORADO AND FOR OTHER RELIEF

This proceeding was instituted upon a petition filed with the Bituminous Coal Division, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, by the Caprock Fuel Company, a code member in District 16, operating the Caprock Mine (Mine Index No. 108) in Jefferson County, Colorado. On March 26, 1941, the petitioner filed an amendment to the petition. The amended petition requests: (1) that the petitioner be granted the right to remove from its slack coals part of the ⅜" x 0 fines on the basis that the 2½" x 0 slack produced at the Caprock Mine shall contain not less than 25 per cent ⅜" x 0 fines; (2) that the effective minimum prices of the petitioner's slack coals, Size Groups 10, 11, and 12 should be lowered 20 cents on sales for truck shipment to Market Areas 217 and 218; (3) that on sales for truck shipment of coals in Size Groups 11 and 12 to the Valmont Plant of the Public Service Company of Colorado, the effective minimum prices should be $1.45 and $1.25 per ton, respectively, and (4) that the effective minimum price on coals in Size Groups 1 through 8 should be reduced 50 cents per ton and on Size Group 9 should be reduced 25 cents per ton on sales for shipment by truck to dealers' yards in Market Area 218 (Denver).

District Board 16 filed an answer to the original petition and the Leyden Lignite Company, a code member producer in District 16, filed a petition of intervention.

On January 2, 1941, 6 F.R. 108, the Director granted the petitioner temporary relief in part, providing for a reduction in the effective minimum prices for the petitioner's coals in Size Groups 1 to 9 when shipped to two specific retail yards in Market Area 218 (Denver), and for special effective minimum prices for coals in Size Groups 11 and 12 when shipped to the Valmont Plant of the Public Service Company of Colorado.

Thereafter, pursuant to Order of the Director, a hearing in this matter was held before a duly designated Examiner of the Division at Denver, Colorado.[1] All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. Appearances were entered on behalf of the petitioner, Leyden Lignite Company, District Board 16, and the Consumers' Counsel Division. Briefs on behalf of the petitioner and the Consumers' Counsel Division were filed.

Thereafter, the petitioner asked for additional temporary relief and submitted statements in support thereof. On August 1, 1941, the petitioner filed a petition to make certain data part of the record for the purpose of showing that the petitioner has suffered a loss of production despite the granting to it of partial temporary relief.

On August 9, 1941, Examiner Larrabee submitted his Proposed Findings of Fact and Conclusions of Law in this matter, recommending that the District 16 price schedule should be amended to provide for a reduction of 10 cents in the effective minimum prices for Size Groups 10, 11, and 12 of the Caprock Mine, and that the relief requested on truck shipments of coals in Size Groups 1 to 9 to retail yards in Market Area 218 should be granted, but that in all other respects the prayers for relief contained in the petitions should be denied. On August 21, 1941, Caprock filed a further petition for temporary relief and, on August 27, a statement in support thereof. On August 29, 1941, District Board 16 filed a reply in opposition to such petition for temporary relief and on September 3, the Leyden Lignite Company filed a memorandum adopting the reply of District Board 16 as its brief. On September 14, District Board 16 filed exceptions to the Proposed Findings of Fact and Conclusions of Law of Examiner Larrabee and on September 15, 1941, the petitioner

[1] By Order of the Director entered thereafter, C. Rollin Larrabee was designated Examiner vice Thurlow Lewis.

filed exceptions thereto and a brief in support thereof.

1. *Removal of fines.* The petitioner requests that it be granted the right to remove from its slack coals part of the 3/8" x 0 fines on the basis that the 2½" x 0 slack produced at the Caprock Mine shall contain not less than 25 percent of 3/8" x 0 fines. Analyses were introduced by the petitioner and District Board 16 to show the size consist of the Caprock slack coals. Those introduced by the petitioner, which had been made by F. W. Whiteside, an independent engineer, showed that such coals contained a much larger proportion of fines than those found in the slack coals of competing mines in the neighborhood. Those introduced by District Board 16 which had been made by the Bureau of Mines, showed, on the other hand, that the average proportion of fines found in the slack coals of these 13 mines is 29.1 percent, as compared with 34.7 percent found in the Caprock coals. Examiner Larrabee found that the analyses made by Whiteside were not so authentic and reliable as those made by the Bureau of Mines, and concluded that, on the basis of such Bureau of Mines analyses, the slack coals of the Caprock Mine do not compare unfavorably with slack coals of competing mines in the proportion of 3/8" x 0 fines.

The petitioner, in its exceptions, contends that the Bureau of Mines analyses had been made of samples taken at a time when the coal was extracted by the pillar system and not by the usual stope system and hence should not be given as much credence as the Whiteside analyses which had been made of samples taken from stopes. The petitioner further contends, in its exceptions, that witnesses, appearing in opposition to the petition, had admitted that the petitioner has an operating problem in view of the geological position of the mine which causes it to produce coals which contain an unusually large proportion of fines.

An examination of the record reveals that neither the analyses made by Whiteside or by the Bureau of Mines are entirely representative. The evidence indicates that under the stope system of mining, such as is employed by Caprock, it is proper to keep the stopes full, thus giving a cushion to the lumps as they come down and reducing breakage. Whiteside, however, had taken samples of coal which had rolled down empty stopes, which Whiteside himself admitted would increase the number of fines. The Bureau of Mines analyses were made of samples taken when the Caprock Mine was operating under a pillar system of mining, whereas Caprock normally employed the stope system. However, witnesses appearing in opposition to the petition submitted evidence that more efficient operations can reduce the number of fines, that Caprock employs a method of operation which tends to increase the number of fines, and that its competitors employ more efficient methods.

In light of this evidence, I agree with the Examiner's conclusion that the Bureau of Mines analyses are of more probative effect than those submitted by Whiteside. Furthermore, the burden of showing the necessity for relief was upon the petitioner and this burden it did not sustain.

The petitioner, in its exceptions, also contends that the evidence indicates that it had lost many customers because of excessive fines. At the hearing considerable testimony by retailers and truckers was introduced to the effect that they had encountered consumer resistance to Caprock slack coals because of the fines. However, it appears that the Caprock slack coals have performed satisfactorily in some large plants. As to the domestic market, the evidence indicates that the complaints have arisen since 1938, when many such consumers installed stokers. The testimony shows that the removal of fines from the Caprock slack coals results in a modified pea coal, which performs quite well in stokers and for which there is a market. The witness Pool, a member of the District 16 classification committee, testified that Caprock has an operating problem and also a marketing problem.[1]

Although in its exceptions the petitioner contends that the removal of all the fines would be necessary in order to produce a modified pea coal, the weight of the evidence indicates that the removal of fines in the amount requested by the petitioner would result in the creation of modified pea.

Accordingly, I find that the Examiner correctly concluded that the evidence does not bear out the contention of the petitioner either that its slack coals contain an appreciably greater amount of fines than the coals of its competitors, or that the sales of the Caprock Mine have been seriously reduced since the establishment of effective minimum prices, because of the failure to remove fines. The evidence indicates that the Caprock coals would be given an unfair competitive advantage, if the prayer for relief were granted, in that it would enable Caprock to sell modified pea coals at slack prices. I, therefore, find that the prayer of the petition with respect to the removal of fines should be denied.

2. *Reduction in Size Groups 10, 11, and 12.* The petitioner requests that the effective minimum prices of its coals in Size Groups 10, 11, and 12 should be reduced on sales to Market Areas 217 and 218 so as to create a price differential of 20 cents between such coals and competing coals based upon claimed quality differences between the respective coals. The Examiner found that the quality of the Caprock slack coals, which constitute 85 per cent of production at that mine, is inferior to that of the competing coals. However, he found that relief granted in Docket No. A–17, authorizing deductions of 25 cents per ton in Size Groups 10, 11, and 12 for truck shipments to plants having railroad facilities, should aid Caprock to compete with its closest competitor, the Leyden Mine, on sales to industrial plants. However, he found that the evidence of loss of business by Caprock since the establishing of minimum prices may well be due to a tendency on the part of consumers to switch to other coals even though prices were equalized since the Caprock slack coals in the past have sold at a lower price than competing coals. Under all these circumstances, Examiner Larrabee concluded that the Caprock slack coals are of a sufficiently inferior quality to be unable to meet competition on an equal basis and that relief in the amount of a 10-cent reduction in the effective minimum prices of coals in Size Groups 10, 11, and 12, should be granted.

District Board 16 in its exceptions contends that the evidence shows that the petitioner competed unfairly in the past by cutting prices, and that the very rapid growth of the petitioner's sales under unregulated prices, in comparison with those of other producers in District 16, indicates either the truth of this or that Caprock sells superior coal, neither of which would justify the Examiner's recommendations.

The evidence shows an inferior qualitative content of the Caprock slack coals to that of competing coals. Despite the District Board's charge of price-cutting by Caprock in the past, it would seem that Caprock's coals, because of their inferior quality, would have to have been offered at lower prices than those of competing coals in order to sell at all. The same appears to be true under the effective minimum prices. Yet, there is evidence to the effect that the Caprock slack does burn fairly satisfactorily in large industrial plants and that some of the petitioner's loss of business may well be due to a tendency on the part of consumers to switch business when prices are suddenly raised. Upon an examination of the record, I find, as did the Examiner, that Caprock slack coals are unable to meet competition on an equal basis, and conclude, as did the Examiner, that relief to an amount of a 10-cent reduction in the effective minimum prices for Size Groups 10, 11, and 12 should be granted.

3. *Reductions in Size Groups 1 to 9, inclusive.* The petitioner requests that the effective minimum prices for its coals should be reduced 50 cents per ton on Size Groups 1 to 8, inclusive, and 25 cents per ton on Size Group 9 when sold for truck delivery to all retail yards in Market Area 218 and unloaded in said yards. The Examiner found that the pe-

[1] The Examiner found that Pool "expressed the opinion that Caprock has a marketing, rather than an operating, problem." The petitioner has excepted to this, claiming that the substance of Pool's testimony was that Caprock has a very serious operating problem. The undersigned finds that Pool testified, as stated above, that Caprock has both an operating and a marketing problem.

titioner has shown that it is at a competitive disadvantage when shipping coal to retail yards in Market Area 218, and accordingly recommended the granting of the relief requested. District Board 16, in its exceptions, contends that the evidence shows conclusively that the practice among operators of truck mines in District 16 is not to unload coals in retail dealers' yards; that it has been the continuous practice in District 16 for many years to charge higher prices for truck coals than for rail coals so as to enable retailers to stay in business; and that the relief herein recommended by the Examiner would discriminate in favor of one mine.

An examination of the record indicates that the petitioner is at a competitive disadvantage when shipping coal to retail yards in Market Area 218. While its effective minimum prices are higher than those of its chief competitor in that market which ships by rail, its transportation charges are the same. Moreover, both Caprock's truck domestic coals and its competitor's rail domestic coals when unloaded at and handled through retail yards incur similar costs of handling and storage and loss due to degradation. Although other truck mines may not wish to ship to those retail yards, the evidence is clear that Caprock has in the past so shipped and unloaded coals, and that, in order to preserve the existing fair competitive opportunities of Caprock, the relief recommended by the Examiner should be granted.

4. *Coals for shipment to the Valmont Plant.* The petitioner requests additional reductions in prices for Size Groups 11 and 12 of 40 cents for deliveries on the Valmont Plant of the Public Service Company. The Examiner found that the evidence indicated that due to the relief granted in Docket No. A–17, the disparity between the delivered price of the petitioner's slack coals and those of its chief competitor, the Leyden Lignite Company, is quite narrow and that, moreover, the criterion of heat value used by the Valmont Plant in its purchase of coal, on the basis of which the petitioner seeks relief, cannot be adopted as the basis for granting relief, particularly in view of the lack of evidence to show the representative character of the Valmont analyses and the deleterious effect upon the price schedule of adopting the value criterion of one consumer as the basis for establishing special effective minimum prices. The petitioner contends, in its exceptions, that the Valmont analyses should nevertheless be given probative effect and that the Valmont Plant buys coal upon its analytical value as compared with competing coals, so that if the Caprock coals cannot be delivered at a competitive price, Valmont will discontinue buying Caprock coals if it can obtain an adequate supply of slack from competing mines.

An Examination of the record is convincing that the conclusion reached by the Examiner is sound. One of the most potent factors in the disruption of the flow of bituminous coals under open competition was the ability of large consumers, because of their strong bargaining power, to depress prices.[2] Accordingly, the Congress concluded that its objective of promoting interstate commerce in bituminous coal and removing burdens and obstructions therefrom could be best secured by the establishment of effective minimum prices coordinated upon the basis of relative market values of coals in common consuming market areas. To permit the standards of purchasing employed by one large consumer to serve as the basis for granting relief would militate against the purpose of Congress by creating a bewilderingly complex price schedule. I find that Examiner Larrabee correctly denied the relief requested.

On the basis of the above Opinion and for the reasons stated therein, the undersigned concludes that the Proposed Findings of Fact and the Conclusions of Law based thereon should be approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned.

Now, therefore, it is ordered, That the said Proposed Findings of Fact and Conclusions of Law of the Examiner be and they hereby are approved and adopted as the Findings of Fact and Conclusions of Law of the Director.

It is further ordered, That:

1. § 336.21 (*General prices*) in the Schedule of Effective Minimum Prices for District No. 16 for All Shipments be and it hereby is amended to provide for a reduction of 10 cents in the effective minimum prices for Size Groups 10, 11, and 12 of the Caprock Mine (Mine Index No. 108).

2. § 336.1 (*Price instructions and exceptions*) in the Schedule of Effective Minimum Prices for District No. 16 for All Shipments be and it hereby is amended by adding Price Instruction and Exception (r) thereto, as follows:

When coals in Size Groups Nos. 1 through 9 from the Caprock Fuel Company's Caprock Mine (Mine Index No. 108) are sold by the Caprock Fuel Company for truck delivery to retail yards in Market Area 218 and the coal is unloaded within such yards, the minimum f. o. b. mine prices listed herein for Size Groups 1 through 8 may be reduced 50 cents and the minimum f. o. b. mine price listed herein for Size Group 9 may be reduced 25 cents.

Not later than the fifteenth day subsequent to the last day of each month, the Caprock Fuel Company shall file with the Statistical Bureau for District 16 reports, signed by itself, the purchasers, and the truckers, showing at least the following: (a) the name and address of the yard; (b) tonnage and size of coal sold; (c) the price charged for the coal; (d) the name and address of the person transporting the coal; and (e) if the producer delivers coal in his own trucks, the actual cost of delivery; if he does not, the transportation charge paid. Such reports shall be identified as being filed pursuant to the terms of this price exception.

3. The prayers for relief contained in the several petitions filed herein, except as granted above, be and they hereby are in all other respects denied.

It is further ordered, That the temporary relief granted by Order of the Director of January 2, 1941, with respect to shipments to the Valmont Plant be and the same hereby is revoked, such revocation to become effective ten (10) days from the date of this Order.

Dated: November 15, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–8621; Filed, November 18, 1941; 10:43 a. m.]

[2] See the findings of the Director in Dockets Nos. A–40 and A–41.

TITLE 32—NATIONAL DEFENSE

CHAPTER XI—OFFICE OF PRICE ADMINISTRATION

PART 1312—LUMBER AND LUMBER PRODUCTS

AMENDMENT NO. 2 TO PRICE SCHEDULE NO. 19—SOUTHERN PINE LUMBER

Sections 1312.26, 1312.28, 1312.29, 1312.30, 1312.31, 1312.32, 1312.33, and 1312.34[1] are hereby amended so that Price Schedule No. 19 shall read as follows:

Southern pine lumber is widely used in the construction industry for exterior and interior finish, framing, millwork, sheathings, floorings, and sub-floorings, and in the manufacture of motor vehicles, low grade furniture, and household and farm appliances. In the defense program it has been extensively employed in the construction of cantonments, defense housing projects and factories. The increased use of southern pine lumber stemming from the defense program and the accompanying expanded economic activity has caused demand to exceed supply. As a consequence, inflationary pressure has caused prices to rise greatly in excess of previously existing industry levels. Such price increases have markedly outstripped cost advances. Warnings to industry members to reduce prices to reasonable levels have failed to secure more than temporary price reductions. Those producers who have manifested a willingness to cooperate with the Government have been unable effectively to keep prices down because of the large number of operators who have consistently maintained high prices. Under these circumstances, voluntary cooperation with the request of the Office of Price Administration to maintain reasonable prices would sub-

[1] 6 F.R. 4142, 4588.

ject those complying with the request to unjust discrimination.

Accordingly, under the authority vested in me by Executive Order No. 8734, it is hereby directed that:

Sec.
1312.26 Maximum prices for Southern pine lumber.
1312.27 Less than maximum prices.
1312.28 Evasion.
1312.29 Records and reports.
1312.30 Enforcement.
1312.31 Modification of the schedule.
1312.32 Definitions.
1312.33 Effective date of amendments.
1312.34 Appendix A—Maximum prices for Southern pine lumber.

§ 1312.26 *Maximum prices for Southern pine lumber.* On and after November 24, 1941, regardless of the terms of any contract of sale or purchase, or other commitment, except as provided in § 1312.33 hereof, no person shall sell, offer to sell, deliver, or transfer, for domestic or export use, any southern pine lumber, where the shipment originates at the mill rather than at a distribution yard, at prices higher than the maximum prices set forth in Appendix A, incorporated herein as § 1312.34: *Provided,* That in the case of retail sales as defined in § 1312.32, where the shipment originates at a mill rather than at a distribution yard, a mark-up of not more than $3.50 per 1,000 feet board measure may be added to the maximum prices set forth in Appendix A.*

*§§ 1312.26 to 1312.34, inclusive, issued pursuant to authority contained in E.O. Nos. 8734, 8875, 6 F.R. 1917, 4483.

§ 1312.27 *Less than maximum prices.* Lower prices than those set forth in Appendix A may be charged, demanded, paid, or offered.*

§ 1312.28 *Evasion.* The price limitations set forth in this Schedule shall not be evaded whether by direct or indirect methods in connection with a purchase, sale, delivery or transfer of southern pine lumber, alone or in conjunction with any other material; or by way of any commission, service, transportation, or other charge, or discount, premium, or other privilege; or by tying-agreement, or other trade understanding; or by making terms or conditions of sale more onerous than those in effect or available to the purchaser on September 5, 1941; or by unnecessarily routing lumber through a distribution yard; or by unreasonably refusing to ship except in mixed cars or trucks, or in specified lengths, or under other circumstances entitling the seller to a premium; or by charges for delivery which exceed the actual cost to the seller of such delivery; or by falsely or wrongly grading or invoicing lumber; or by grading as a special grade lumber which can be graded as a standard grade; or by any other means.*

§ 1312.29 *Records and reports.* Every person who, during any calendar month, shall sell 34,000 pounds or more of southern pine lumber for shipment originating at the mill shall keep for inspection by the Office of Price Administration, for a period of not less than one year, a complete and accurate record of every such sale made during such month, showing the date thereof, the name and address of the buyer, the prices, and the quantities and grades sold.

Persons affected by this Schedule shall submit such reports to the Office of Price Administration as it may from time to time require.*

§ 1312.30 *Enforcement.* In the event of refusal or failure to abide by the price limitations and other provisions contained in this Schedule, or in the event of any evasion or attempt to evade the price limitations or other provisions contained in this Schedule, the Office of Price Administration will make every effort to assure (a) that the Congress and the public are fully informed thereof, (b) that the powers of the Government, both state and federal, are fully exerted in order to protect the public interest and the interests of those persons who conform to this Schedule, and (c) that the procurement services of the Government are requested to refrain from selling to or purchasing from those persons who fail to comply with this Schedule. Persons who have evidence of the demand of prices above the limitations set forth, of any evasion or effort to evade the provisions hereof, or of speculation, or manipulation of prices of southern pine lumber, or the hoarding or accumulating of unnecessary inventories thereof, are urged to communicate with the Office of Price Administration.*

§ 1312.31 *Modification of the schedule.* Persons complaining of hardship or inequity in the operation of this Schedule may apply to the Office of Price Administration for approval of any modification thereof or exception therefrom: *Provided,* That no application under this section will be considered unless filed by persons complying with this Schedule.*

§ 1312.32 *Definitions.* When used in this Schedule, the term:

(a) "Person" means an individual, partnership, association, corporation, or other business entity. The term includes, without restricting the generality of the foregoing, any mill operator, manufacturer, commission salesman, manufacturer's representative, concentration yard operator, wholesaler, wholesale distributor, wholesaler's agent, or retailer.

(b) "Southern pine" means the botanical species of short leaf pine (Pinus echinata), loblolly pine (Pinus taeda), slash pine (Pinus caribaea), longleaf pine (Pinus palustris), or any other Pinus species known commercially as "southern pine".

(c) "Mill" means a manufacturing plant, concentration yard, or other establishment which sells less than 75 percent of the volume of its southern pine lumber at retail and which processes, by sawing, or by planing or other comparable method, at least 25 percent of the volume of southern pine logs or lumber purchased or received by it.

(d) "Distribution yard" means a wholesale or retail lumber yard which purchases or receives southern pine logs or lumber from a producer, a mill, or another distribution yard for purposes of unloading, sorting, and resale or redistribution, which regularly maintains a stock of lumber, and which (1) processes, by sawing, or by planing or other comparable method, less than 25 percent of the volume of such logs or lumber so purchased or received by it, or (2), regardless of the percentage of such processing, sells more than 75 percent of the volume of its southern pine lumber at retail.

(e) "Retail sale" means a sale which satisfies all of the following tests:

(1) It must be a sale of lumber to a consumer or contractor for use in building, construction, remodeling, repair, maintenance, or fabrication, and not for resale in substantially the same form.

(2) It includes only sales in less than carload quantities. Where shipment is by water or by truck, the maximum retail sale quantity shall be 20,000 feet board measure. For the purpose of this subparagraph, the size of the sale is determined by the size of the order.

(3) The sale must be accompanied by the following services: delivery to the job site or other point specified by the purchaser, and at such times and in such quantities as the purchaser specifies; tallying and checking; the privilege of exchanging goods and returning unused material; and the readiness and ability of the seller to replace deficiencies and adjust complaints from stocks kept on hand for such purposes.

(f) "Volume" means the board feet volume of lumber processed from logs, processed from other lumber, or sold, as the case may be, within the six months immediately prior to the transaction subject to this Schedule.

(g) "Deliver" means to make physical transfer of lumber to a purchaser, or to a carrier, not owned or controlled by the seller, for carriage to a puchaser to whom the lumber has been previously sold.*

§ 1312.33 *Effective date of amendments.* Amendment No. 2, amending §§ 1312.26, 1312.28, 1312.29, 1312.30, 1312.31, 1312.32, 1312.33 and 1312.34, shall become effective November 24, 1941: *Provided,* That firm commitments entered into prior to November 24, 1941, for the sale of any southern pine lumber covered by Price Schedule No. 19 prior to Amendment No. 2, at prices not exceeding the maximum prices established by such Schedule, may be completed at the contract price.*

§ 1312.34 *Appendix A—Maximum prices for Southern pine lumber—(a) Maximum f. o. b. mill prices per 1,000 feet board measure:*

BOARDS AND STRIPS (ROUGH GREEN)

Grade	Standard length [1]	8′ length	10′ length	12′ length	14′ length	16′ length	18′ and 20′ length
No. 1:							
1 x 3	$34.00	$34.00	$35.00	$35.00	$35.00	$36.50	$37.00
1 x 4	32.00	32.00	33.00	33.00	33.00	34.50	35.00
1 x 6	32.00	32.00	33.00	33.00	33.00	34.50	35.00
1 x 8	33.00	33.00	34.00	34.00	34.00	35.50	36.00
1 x 10	35.00	35.00	36.00	36.00	36.00	37.50	38.00
1 x 12	43.00	43.00	44.00	44.00	44.00	45.50	46.00
No. 2:		*6′ and 8′*					
1 x 2 and 3	26.00	26.00	27.50	28.00	28.00	28.50	30.00
1 x 4	23.00	23.00	24.50	25.00	25.00	25.50	27.00
1 x 6	25.00	25.00	26.50	27.00	27.50	28.00	30.00
1 x 8	25.00	25.00	26.50	27.00	27.50	28.00	30.00
1 x 10	25.50	25.50	28.50	28.50	29.00	29.50	31.50
1 x 12	30.00	30.00	33.00	33.50	34.00	34.50	37.50
No. 3:							
1 x 4	19.00	19.00	20.50	21.00	21.00	21.50	23.00
1 x 6	20.00	20.00	21.50	22.00	22.50	23.00	25.00
1 x 8	20.00	20.00	21.50	22.00	22.50	23.00	25.00
1 x 10	20.50	20.50	23.50	23.50	24.00	24.50	26.50
1 x 12	21.00	21.00	24.00	24.50	25.00	25.50	28.50

Additions to Rough Green Prices:
For Rough, Air Dried, add $2.00.
For Rough, Kiln Dried, add $3.00.
For S1S, S2S, S3S, S4S, S2S & Matched, or Shiplap, Standard or Thinner, add $1.00.
For Ripping or Resawing, add $1.00 per 1,000 board feet for each cut.
For Chemical Anti-Stain Treatment, add 50¢ to the Green or Air Dried prices but not to Kiln Dried prices.
Where a restricted Standard Length is specified, 8′ to 16′ or longer, add $1.00.
Odd lengths or Fractional Lengths shall be counted and priced as next longest even length.

[1] Standard Lengths are 4′ to 20′ inclusive, in multiples of 2′, and the following percentage of short lengths may be included in all shipments in which the lengths are not specifically restricted:

No. 1	5% 8-foot.
No. 2	5% 4-foot. 5% 6-foot. 5% 8-foot.
No. 3 and No. 4—8″ and wider	5% 4-foot. 5% 6-foot. 5% 8-foot.

No. 3 and No. 4—3″ to 6″ widths may be 25% under 10-foot.

DIMENSION (ROUGH GREEN)

Grade	Random length	8′ length	9′ length	10′ length	12′ length	14′ length	16′ length	18′ length	20′ length	22′ and 24′ length
No. 1:										
2 x 3	$31.00	$31.00	$32.00	$31.00	$31.00	$32.00	$33.00	$34.50	$35.50	
2 x 4	30.00	30.00	31.00	30.00	30.00	31.00	32.00	33.50	34.50	$40.00
2 x 6	29.00	29.00	30.00	29.00	29.00	30.00	30.50	32.50	33.50	39.00
2 x 8	30.00	30.00	31.00	30.00	30.00	31.00	31.50	33.50	34.50	40.00
2 x 10	33.50	33.50	33.50	35.00	35.00	35.00	36.00	39.50	41.50	46.00
2 x 12	35.50	35.50	35.50	37.00	37.00	37.00	38.00	41.50	43.50	48.00
No. 2:										
2 x 3	27.00	27.00	28.00	27.00	27.00	28.00	29.00	30.50	31.50	
2 x 4	26.00	26.00	27.00	26.00	26.00	27.00	28.00	29.50	30.50	36.00
2 x 6	24.00	24.00	25.00	24.00	24.00	25.00	25.50	27.50	28.50	34.00
2 x 8	25.00	25.00	26.00	25.00	25.00	26.00	26.50	28.50	29.50	35.00
2 x 10	26.50	26.50	27.50	29.50	28.50	28.50	28.50	32.00	34.00	39.50
2 x 12	28.50	28.50	29.50	29.50	29.50	29.50	30.50	34.00	35.00	40.50
No. 3:										
2 x 3	19.00	20.00	21.00	20.00	20.00	21.00	22.00	23.50	24.50	
2 x 4	18.00	19.00	20.00	19.00	19.00	20.00	21.00	22.50	23.50	
2 x 6	16.00	17.00	18.00	17.00	17.00	18.00	18.50	20.50	21.50	
2 x 8	17.00	18.00	19.00	18.00	18.00	19.00	19.50	21.50	22.50	
2 x 10	18.50	19.50	20.50	22.50	21.50	21.50	21.50	25.00	27.00	
2 x 12	20.50	21.50	22.50	22.50	22.50	22.50	23.50	27.00	28.00	

Additions to Rough Green prices:
For Rough, Air Dried, add $2.00.
For Rough, Kiln Dried, add $3.00.
For S1S, S2S, S3S, S4S, add $1.00.
For working to Shiplap, Center Match, Dressed and Matched, or Grooved, add $2.00 to Rough prices.
For Ripping or Resawing, add $1.00 per 1,000 board feet for each cut.
For Chemical Anti-Stain Treatment, add 50¢ to Green or Air Dried prices but not to Kiln Dried prices.
Random Lengths may be 8′ to 16′ or longer.
Odd or Fractional Lengths, except 9′, shall be counted and priced as next longest even length.

FLOORING (NO HEART SPECIFICATION), PLAIN END, KILN DRIED, STANDARD LENGTHS[1]

	Grade B and better	Grade C	Grade D	Grade No. 2	Grade No. 3
Edge grain:					
1 x 3	$68.00	$60.00	$42.00		
1 x 4	66.00	58.00	40.00		
Near edge grain:					
1 x 3	61.00	53.00	37.00		
1 x 4	59.00	51.00	35.00		
Flat grain:					
1 x 3	53.00	50.00	35.00	$30.00	$20.00
1 x 4	52.00	49.00	34.00	28.00	19.00

Add $2.00 for Specified Lengths.
Add $2.00 for End-Matching Standard Length Flooring.

[1] Standard lengths are 4′ to 20′ inclusive, and the following percentages of short lengths may be included in all shipments in which the lengths are not specifically restricted:

A and B	5% 8 and/or 9-foot.
C	5% 6 and/or 7-foot. 5% 8 and/or 9-foot.
D and No. 2	5% 4 and/or 5-foot. 5% 6 and/or 7-foot. 5% 8 and/or 9-foot.
No. 3	Not to exceed 20% 4- and 6-foot lengths

FLOORING (NO HEART SPECIFICATION), END MATCHED, KILN DRIED, 2′ TO 8′ NESTED

	Grade B and better	Grade C	Grade D
Edge Grain:			
1 x 3	$60.00	$53.00	$38.00
1 x 4	58.00	51.00	36.00
Near Edge Grain:			
1 x 3	55.00	50.00	35.00
1 x 4	54.00	49.00	34.00
Flat Grain:			
1 x 3	45.00	42.00	28.00
1 x 4	44.00	41.00	27.00

DROP SIDING, KILN DRIED STANDARD LENGTHS[1]

	Grade B and better	Grade C	Grade D	Grade No. 2	Grade No. 3
Drop Siding Patterns 115, 117, 118, 119:					
Plain End 6″	$46.00	$43.00	$39.00	$31.00	$25.00
Plain End 8″	48.00	45.00	40.00	32.00	25.00
Drop Siding all other patterns:					
Plain End 6″	51.00	48.00	39.00	31.00	25.00
Plain End 8″	57.00	54.00	40.00	32.00	25.00
Bevel Siding 5/8″	45.00	42.00	33.00	28.00	20.00
Bevel Siding 1/2″	39.00	36.00	28.00	24.00	17.00

STANDARD BEADED OR V-GROOVED CEILING, KILN DRIED STANDARD LENGTHS[1]

Plain End:					
11/16 & 3/4	$49.00	$46.00	$34.00	$29.00	
5/16	40.00	38.00	30.00	26.00	

Add $2.00 for Specified Lengths.

[1] Standard lengths are 4' to 20' inclusive, and the following percentages of short lengths may be included in all shipments in which the lengths are not specifically restricted:

A and B	5% 8- and/or 9-foot.
C	5% 6- and/or 7-foot. 5% 8- and/or 9-foot.
D and No. 2	5% 4- and/or 5-foot. 5% 6- and/or 7-foot. 5% 8- and/or 9-foot.
No. 3	Not to exceed 20% 4- and 6-foot.

TIMBERS, GREEN, ROUGH, S4S OR S2S

	No. 1 common		No. 2 common	
	8' to 16'	18' and 20'	8' to 16'	18' and 20'
3 x 3 to 4 x 4	$32.00	$36.00	$29.00	$33.00
3 x 6 to 6 x 6	30.00	34.00	27.00	31.00
3 x 8 to 6 x 8	32.00	36.00	28.00	32.00
8 x 8	34.00	38.00	30.00	34.00
3 x 10 to 10 x 10	35.00	39.00	31.00	35.00
3 x 12 to 12 x 12	40.00	44.00	36.00	40.00

Add $2.00 for Shiplap or T&G.
Add $4.00 for Beveling or Outgauging.
For odd sizes, price at next larger even size.
Odd or fractional lengths, except 5' and 7' shall be counted and priced as next longest even length.

CAR MATERIAL

	9' length	10' length	12' length	14' length	16' length	18' and 20' length
LINING (KILN DRIED AND DRESSED TO ALL PATTERNS AND SIZES)						
Select (Par. 59 AAR Rules):[1] 1 x 4 and 1 x 6	$60.00	$55.00	$57.00	$60.00	$62.00	$68.00
Common (Par. 60 AAR Rules):[1] 1 x 4 and 1 x 6	40.00	35.00	37.00	40.00	42.00	45.00
VERTICAL SHEATHING (KILN DRIED AND DRDSSSED TO ALL PATTERNS AND SIZES)						
Select (Par. 51 AAR Rules):[1] 1 x 4 and 1 x 6	$60.00	$55.00	$57.00	$60.00	$62.00	$68.00
Common (Par. 52 AAR Rules):[1] 1 x 4 and 1 x 6	50.00	45.00	47.00	50.00	52.00	58.00
LONGITUDINAL SHEATHING (KILN DRIED AND DRESSED TO ALL PATTERNS AND SIZES)						
Select (Par. 53 AAR Rules):[1] 2 x 4	$67.00	$57.00	$57.00	$57.00	$62.00	$67.00
2 x 6	72.00	62.00	62.00	62.00	67.00	72.00
Common (Par. 54 AAR Rules):[1] 2 x 4	47.00	42.00	42.00	42.00	45.00	47.00
2 x 6	52.00	47.00	47.00	47.00	50.00	52.00
FLOORING (DECKING) (KILN DRIED OR AIR DRIED AND DRESSED TO ALL PATTERNS AND SIZES)						
Common (Par. 58 AAR Rules):[1] 2 x 6 and 2 x 8	$44.50	$42.50				
2¼, 2½, 2¾, and 3" x 6" and 8"	47.50	45.50				
For Dense Flooring (Decking) Add $2.50.						

For final inspection at the point of destination, rather than at the shipping point, add $5.00.
For grades and specifications other than those contained in the A. A. R. Rules, the maximum price shall be the price for the A. A. R. grade and specification which most closely corresponds to the grade and specification of the car material item involved in the sale governed by this Schedule.
Odd and fractional lengths, except 9', shall be counted and priced as next longest even length.

[1] Specifications for car material (designated above as "AAR Rules") correspond to the specifications issued by the Association of American Railroads as set forth in its pamphlet M 907-33, adopted, 1910; revised, 1933.

(b) For mixed car or mixed truck shipments, $1.00 additional per 1,000 feet board measure may be charged. A mixed car shipment consists of three or more items as hereinafter defined, provided at least three items amount to not less than 2,000 board feet each, or at least six items amount to not less than 1,000 board feet each, or at least twelve items amount to not less than 500 board feet each. A mixed truck shipment consists of three or more items as hereinafter defined, provided at least three items amount to not less than 500 board feet each, or at least six items amount to not less than 250 board feet each. An item consists of one width, thickness, or pattern of finish, casing, base, mouldings, partition, ceiling, siding, plain end flooring, and matched flooring, shiplap, boards, strips, dimension, or timbers.

(c) For export sales, an addition of not more than $3.50 per 1,000 feet board measure may be charged for the services of switching, unloading at the dock, tallying, marking, and dock insurance.

(d) A delivered price in excess of the maximum f. o. b. mill prices set forth in (a) hereof may be charged, consisting of such maximum prices plus actual transportation costs to the extent that such costs are paid by the seller. In computing such actual transportation costs, the parties may adopt the practice of charging a sum equivalent to the one-quarter of a dollar nearest to such actual transportation costs. In addition, they may adopt the estimated average weights of southern pine per thousand feet board measure (worked to standard sizes unless otherwise indicated) as follows:[1]

BOARDS AND STRIPS

1 x 2" to 1 x 10" Rough	3,200
1 x 12" Rough	3,300
1 x 2" to 1 x 10" S1S or S2S 25/32"	2,500
1 x 12" S1S or S2S 25/32"	2,600
1 x 2" to 1 x 10" S3S or S4S 25/32"	2,400
1 x 12" S3S or S4S 25/32"	2,500
1 x 2" to 1 x 4" D&M	1,900
1 x 6" D&M or Shiplap	2,200
1 x 8" to 1 x 10" D&M or Shiplap	2,300
1 x 12" D&M or Shiplap	2,400
For ¾" dressed boards, deduct	100
For ⅝" boards, all workings, deduct	500
For 11/16" boards, all workings, deduct	300
For 13/16" boards, all workings, add	100
For resawing, deduct for each cut	200
For Ripping, no deduction	-----
For 1¼" and 1½", add	300

DIMENSION

(2" Dimension, Factory Flooring, and Roof Decking)

2 x 4" to 2 x 12" Rough green	4,500
2 x 4" to 2 x 12" Green, dressed 1⅝"	3,800
2 x 2" to 2 x 8" Rough	3,300
2 x 10" & 2 x 12" Rough	3,400
2 x 2" to 2 x 8" Dressed to 1⅝"	2,500
2 x 10" & 2 x 12" Dressed to 1⅝"	2,600
For 1¾", add	400
For D&M, SL & Gr. for splines, deduct	200

FLOORING

(Plain End and End Matched)

1 x 3" (for Hollow Back deduct 100 lbs.)	1,800
1 x 4" (for Hollow Back deduct 100 lbs.)	1,900

DROP SIDING

1 x 6" (Pat. 116)	2,000
1 x 8" (Pat. 116)	2,100
1 x 6" (Pat. 117)	1,700
1 x 8" (Pat. 117)	1,800
1 x 6" (other patterns)	1,800
1 x 8" (other patterns)	1,900
Bevel and SE Siding from 1"	1,000
Bevel and SE Siding from 1¼"	1,300

STANDARD BEADED OR V-GROOVED CEILING

11/16"	1,700
¾"	1,800
9/16"	1,400

[1] The figures given refer to dry weight, except where otherwise specified.

TIMBERS

(Heavy Joists, Timbers, etc. [over 2" thick])

Rough, green	4,500
S4S ¼" scant, green	4,200
S4S ⅜" scant, green	4,000
S4S ½" scant, green	3,800
T&G, SL & Gr. for splines, deduct	300

CAR MATERIAL

VERTICAL SHEATHING, LINING

4" and 6" 13/16 T&G	2,200
4" and 6" 13/16 S2S	2,600
For 25/32" thickness, deduct	100

LONGITUDINAL SHEATHING

4" T&G 1¾"	2,400
4" T&G 1⅝"	2,300
4" T&G 1½"	2,100
4" S2S to 1¾"	2,900
4" S2S to 1⅝"	2,700
4" S2S to 1½"	2,500
6" T&G to 1¾"	2,500
6" T&G to 1⅝"	2,400
6" T&G to 1½"	2,200
6" S2S to 1¾"	2,900
6" S2S to 1⅝"	2,700
6" S2S to 1½"	2,500

FLOORING (CAR DECKING)

6" and 8", S2S to 1¾, 2½, 2¾, and 3", Dry	3,000
6" and 8", S2S to 1¾, 2½, 2¾, and 3", Green	4,200
6" and 8", S2S and T&G to 2½, 2¾, and 3", Dry	2,700
6" and 8", S2S and T&G to 1¾, 2½, 2¾, and 3" Green	3,500
6" and 8", S2S and T&G to 1¾", Dry	2,600
6" and 8", S1S⅛" scant, Dry	3,200
Rough, Green	4,500
Rough, Dry	3,400

Issued this 18th day of November 1941.
Effective November 24, 1941.

LEON HENDERSON,
Administrator.

[F. R. Doc. 41-8626, Filed, November 18, 1941; 11:38 a. m.]

CHAPTER XIII—OFFICE OF PETROLEUM COORDINATOR FOR NATIONAL DEFENSE

[Recommendation No. 14]

PART 1507—DISTRIBUTION

STEEL AND OTHER METAL CONTAINERS

To all persons using containers for petroleum or petroleum products:

The needs of the defense program of the United States for steel and other metals are so urgent and in excess of the available supply that the petroleum industry must make more steel and other metals available for such defense needs by conducting its operations in such manner as to use the minimum quantity of steel and other metals and by using substitute materials wherever and whenever possible.

Such needs are so great that the allocation of steel to drum manufacturers has already been reduced by one third and the requirements of oil companies constitute about 57% of the normal production of the drum manufacturers.

It is also necessary to curtail the use of tin cans, tubes, and other metal containers now being employed in the distribution of petroleum and its products.

Wood, glass, paper, and other materials offer practicable substitutes for steel, tin, and other metal containers and the manufacturers of containers from such substitutes are in position to accept orders and make immediate shipments of wood barrels and of other containers within a reasonable time.

Therefore, pursuant to the President's letter of May 28, 1941 establishing the Office of Petroleum Coordinator for National Defense, I do hereby recommend that immediately and until further notice:

§ 1507.1 *Steel and other metal containers not to be used.* All persons in the petroleum industry shall discontinue the use of steel, tin, and other metal containers, including but not limited to drums, cans, and tubes for petroleum or petroleum products to the greatest possible degree and substitute therefor containers made of wood, paper, glass, or other materials which are available. (President's letter of May 28, 1941 to the Secretary of the Interior (6 F.R. 2760))

R. K. DAVIES,
Acting Petroleum Coordinator for National Defense.

OCTOBER 25, 1941.

[F. R. Doc. 41-8622; Filed, November 4, 1941; 10:11 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

CHAPTER II—CORPS OF ENGINEERS, WAR DEPARTMENT

PART 203—BRIDGE REGULATIONS[1]

§ 203.446 *New River; highway bridge at S. E. 6th Avenue, Fort Lauderdale, Fla.*[2] (a) During the period December 1 to April 30, both dates inclusive, the owners or agency controlling the bridge may keep the drawspan closed to navigation between the hours of 11:00 a. m. and 6:30 p. m. except on the hour and half hour, when the bridge shall be opened to allow all accumulated navigation to pass, and except at 12:45 p. m., 1:15 p. m., 2:45 p. m., 4:15 p. m., 4:45 p. m., and 5:15 p. m., when the bridge shall be opened to allow the passage of any sightseeing boat authorized to carry passengers for hire; other craft awaiting passage may also pass the drawspan at these times providing the bridge is opened for passage of a sight-seeing boat.

(b) The draw shall be opened at any time to allow the passage of a tow or vessel in distress.

(c) The owner or agency controlling the bridge shall place a clock on each side of the drawspan at such location and of sufficient size to be seen at day or night by craft within 300 feet of the bridge. The time of opening shall be governed by this clock.

(d) The owner or agency controlling the bridge shall place signs, of a size and description designated by the District Engineer, at each side of the bridge and at intervals of ½, 1, 1½, and 2 miles above and below the bridge.

(e) These regulations may be revoked at any time by the Secretary of War. (Sec. 5, River and Harbor Act, Aug. 18, 1894, 28 Stat. 362; 33 U.S.C. 499)

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 41-8598; Filed, November 18, 1941; 9:32 a. m.]

[1] § 203.446 is superseded.

[2] This regulation also appears in War Department regulations of November 7, 1941, E.D. 6371, Florida—New R.—S. E. 6th Ave.—7/5.

TITLE 46—SHIPPING

CHAPTER I—BUREAU OF MARINE INSPECTION AND NAVIGATION

SUBCHAPTER A—DOCUMENTATION, ENTRANCE AND CLEARANCE OF VESSELS, ETC.

[Order No. 166]

PART 5—FOREIGN CLEARANCES

Pursuant to the authority in section 161 R.S., the following changes in the regulations contained in Part 5, Foreign Clearances, are hereby made:

Sections 5.80 *Vessel statement,* 5.81 *Vessels required to file vessel statement,* 5.82 *American vessels denied clearance to belligerent states,* 5.83 *Declaration as to right, title, and interest in articles or materials,* 5.84 *Combat areas,* and 5.86 *Armed American vessels,* are hereby rescinded.

Section 5.85 *Belligerent vessels carrying American citizens as passengers* is hereby amended to read as follows:

§ 5.85 *Foreign vessels.* (a) Final clearance shall not be granted to any foreign vessel (watercraft or aircraft), wherever bound, until the master has filed with the collector a list of all of the members of the crew of the vessel, together with the nationality of each member, which list shall be sworn to by the master.

(b) No clearance shall be granted to any vessel (watercraft or aircraft) of a belligerent state while having on board any citizen of the United States, whether as a passenger or member of the crew, except in accordance with the rules and regulations prescribed under authority of the Neutrality Act of 1939. (R.S. 161; 5 U.S.C. 22)

Section 5.89 *Definitions* is amended to read as follows:

§ 5.89 *Definitions.* Where used in 46 C.F.R. 5.85, 5.87, and 5.88: (a) The term "vessel (watercraft or aircraft)" means every description of watercraft and aircraft capable of being used as a means of transportation on, under, or over water.

(b) The term "belligerent state" means any nation, government, or country, named in a proclamation of the President issued under authority of section 1 (a) of the Neutrality Act of 1939.

(c) The term "citizen" shall include any individual owing allegiance to the United States, a partnership, company, or association composed in whole or in part of citizens of the United States, and any corporation organized and existing under the laws of the United States. (R. S. 161; 5 U.S.C. 22)

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of Commerce.

NOVEMBER 17, 1941.

[F. R. Doc. 41-8633; Filed, November 18, 1941; 11:51 a. m.]

[Order No. 165]

GENERAL RULES AND REGULATIONS, AMENDMENTS

Pursuant to the authority of R.S. 4405, as amended (46 U.S.C. 375), an Executive Committee of the Board of Supervising Inspectors, Bureau of Marine Inspection and Navigation, was, after public notice, convened by the Acting Secretary of Commerce in the office of the Director, Bureau of Marine Inspection and Navigation, Department of Commerce, Washington, D. C., on November 7, 1941, at which session, after public hearings, the following amendments and approvals of miscellaneous items of equipment were adopted.

SUBCHAPTER D—TANK VESSELS

PART 33—LIFE-SAVING APPLIANCES

Section 33.2-1 is amended to read as follows:

§ 33.2-1 *Tank ships; ocean-T/O.* All tank ships which normally operate more than 20 miles offshore shall carry a sufficient number of lifeboats on each side to accommodate all persons on board: *Provided,* That every tank ship carrying an armed guard that is not provided with lifeboatage on each side of the vessel to accommodate all persons on board shall carry an extra lifeboat not to exceed 40 persons in capacity under davits crane, boom, or other practical means of launching. Every tank ship carrying an armed guard, in addition to the lifeboatage, shall be equipped with sufficient approved life rafts to accommodate all persons on board. The minimum number of life rafts to be furnished shall be four.

No boat shall be of less than 180 cubic feet measurement. (R.S. 4405, 4417a (2), as amended; 46 U.S.C. and Sup. 375, 391a (2))

Section 33.2-3 is amended to read as follows:

§ 33.2-3 *Tank ships; coastwise—T/C.* All tank ships which normally operate 20 miles or less offshore shall carry a sufficient number of lifeboats on each side to accommodate all persons on board: *Provided,* That every tank ship carrying an armed guard that is not provided with lifeboatage on each side of the vessel to accommodate all persons on board shall carry an extra lifeboat not to exceed 40 persons in capacity under davits, crane, boom, or other practical means of launching. Every tank ship carrying an armed guard, in addition to the lifeboatage, shall be equipped with sufficient approved life rafts to accommodate all persons on board. The minimum number of life rafts to be furnished shall be four.

No boat shall be of less than 180 cubic feet measurement except by approval of the Bureau. (R.S. 4405, 4417a (2), as amended; 46 U.S.C. and Sup. 375, 391a (2))

SUBCHAPTER G—OCEAN AND COASTWISE: GENERAL RULES AND REGULATIONS

PART 59—BOATS, RAFTS, BULKHEADS, AND LIFE-SAVING APPLIANCES (OCEAN)

Section 59.6 (a) is amended to read as follows:

§ 59.6 *Lifeboats required on vessels of class* (c). (a) Cargo vessels shall carry a sufficient number of lifeboats on each side to accommodate all persons on board: *Provided,* That every cargo vessel carrying an armed guard that is not provided with lifeboatage on each side of the vessel to accommodate all persons on board shall carry an extra lifeboat not to exceed 40 persons in capacity under davits, crane, boom, or other practical means of launching. Every cargo vessel carrying an armed guard, in addition to the lifeboatage, shall be equipped with sufficient approved life rafts to accommodate all persons on board. The minimum number of life rafts to be furnished shall be four. (R. S. 4405, 4488, as amended; 46 U.S.C. and Sup. 375, 481)

* * * * *

PART 60—BOATS, RAFTS, BULKHEADS, AND LIFE-SAVING APPLIANCES (COASTWISE)

Section 60.4 (a) is amended to read as follows:

§ 60.4 *Lifeboats required on vessels of class* (c). (a) Cargo vessels shall carry a sufficient number of lifeboats on each side to accommodate all persons on board: *Provided,* That every cargo vessel carrying an armed guard that is not provided with lifeboatage on each side of the vessel to accommodate all persons on board shall carry an extra lifeboat not to exceed 40 persons in capacity under davits, crane, boom, or other practical means of launching. Every cargo vessel carrying an armed guard, in addition to the lifeboatage, shall be equipped with sufficient approved life rafts to accommodate all persons on board. The minimum number of life rafts to be furnished shall be four. (R.S. 4405, 4488, as amended; 46 U.S.C. and Sup. 375, 481)

MISCELLANEOUS ITEMS OF EQUIPMENT APPROVED

The following miscellaneous items of equipment for the better security of life at sea are approved:

Buoyant Cushion

Buoyant cushion, consisting of kapok life preserver vest (Modified U. S. Gov't Vest, Universal Size) (Drawing dated 10-16-41), Approval No. B-69, manufactured by the American Pad and Textile Co., Greenfield, Ohio.

Davit

Schat RD Davit (Drawing Nos. B. A. 192, B. A. 191, B. A. 115, B. A. 106, B. A. 105, C. A. 218), submitted by Marine Safety Devices, Inc., New York, N. Y. (Maximum working load of 9,000 pounds per arm.)

Disengaging Apparatus

Lane Rottmer lifeboat releasing gear, size "C" (Drawing Nos. S-112, S-113, S-114, and S-115), for maximum working load of 6,250 pounds per hook, manufactured by the Lane Lifeboat and Davit Corp., Brooklyn, N. Y.

Lifeboat Hand-propelling Gear

Hand-propelling gear, consisting of combination of Standard Type RT Cleveland Worm and Gear Co. Reduction Unit (Drawing Nos. 1125 RT and 1126 RT) and 3XE-90 Paragon Enclosed Reverse Gear (Drawing No. Y-5161), submitted by Frank Morrison & Son Co., Cleveland, Ohio. (R.S. 4405, 4417a, 4426, 4488 and 4491, as amended; sec. 6 of act of April 25, 1940; 46 U. S. C. 375, 391a, 404, 481, 526-526t)

[SEAL] EXECUTIVE COMMITTEE,
BOARD OF SUPERVISING INSPECTORS,
R. S. FIELD,
Director, Chairman.
GEORGE FRIED,
U. S. Supervising Inspector, 2d District New York, N. Y.
EUGENE CARLSON,
U. S. Supervising Inspector, 3d District Norfolk, Va.

Approved: November 17, 1941.

WAYNE C. TAYLOR,
Acting Secretary of Commerce.

[F. R. Doc. 41-8632; Filed, November 18, 1941; 11:51 a. m.]

[Order No. 167]

SUBCHAPTER N—EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES, AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

PART 147—REGULATIONS GOVERNING USE OF DANGEROUS ARTICLES AS SHIPS' STORES AND SUPPLIES ON BOARD VESSELS

Order Exempting Armed Merchant Passenger-Carrying Vessels of the United States From Certain Provisions of Subsection (4) of R.S. 4472 as Amended

Pursuant to the authority vested in the Secretary of Commerce by section 4472 of the Revised Statutes, as amended, the following findings relative to the acceptance, transportation, carriage, conveyance, storage, stowage or use on board armed merchant passenger-carrying vessels of the United States of high explosives and an exemption of such vessels from certain of the provi-

sions of subsection (4) of R.S. 4472, as amended, are hereby promulgated.

Acting upon representations made to the Department, I have caused an investigation to be made and as a result thereof I find that in the interest of our national defense, and notwithstanding the provisions of subsection (4) of R.S. 4472, as amended, it is essential to the safety of merchant passenger-carrying vessels of the United States that such vessels as are armed be authorized to accept, transport, carry, convey, store, stow, or use on board in connection with such arming certain high explosives. I further find that such explosives may be accepted, transported, carried, conveyed, stored, stowed or used on board these vessels with safety, provided such acceptance, transportation, carriage, conveyance, storage, stowage, or use is carried out in accordance with the provisions contained in §§ 147.06–2 to 147.06–5,[1] inclusive, of the regulations governing explosives or other dangerous articles on board vessels. Because of the existing situation with regard to the national emergency, I also find it essential to take action to make this authorization effective immediately.

Therefore, it is ordered, That under the authority contained in subsection (11), and under the emergency provisions of said subsection of R.S. 4472, as amended (46 U.S.C.; Sup. 170), that armed merchant passenger-carrying vessels of the United States shall be exempt from the application of the provisions of subsection (4) of R.S. 4472, as amended; to the extent that such vessels may accept, transport, carry, convey, store, stow, or use on board such high explosives as are necessary for such armament when said high explosives are accepted, transported, carried, conveyed, stored, stowed, or used in accordance with the provisions of §§ 147.06–2 to 147.06–5,[1] inclusive, of the regulations governing explosives or other dangerous articles on board vessels. (R. S. 4472, as amended; 46 U.S.C.; Sup. 170)

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of Commerce.

NOVEMBER 17, 1941.

[F. R. Doc. 41–8634; Filed November 18, 1941; 11:51 a. m.]

[Order No. 168]

PART 147—REGULATIONS GOVERNING USE OF DANGEROUS ARTICLES AS SHIPS' STORES AND SUPPLIES ON BOARD VESSELS

Order Amending the Regulations Governing the Use of Explosives or Other Dangerous Articles on Board Cargo Vessels

Pursuant to the authority vested in the Secretary of Commerce by section 4472 of the Revised Statutes, as amended, regulations governing the transportation, storage, stowage, or use of explosives or other dangerous articles or substances, and combustible liquids on board vessels, effective April 9, 1941, are hereby amended, under the emergency provision contained in subsection (9) of R.S. 4472, as amended; (46 U.S.C., Sup. 170); as follows:

To Part 147, Regulations Governing Use of Dangerous Articles as Ships' Stores and Supplies on Board Vessels, add after § 147.05–100, Table S.—Classification: Ships' stores and supplies of a dangerous nature, the following new section:

Arming of U. S. Merchant Cargo Vessels

§ 147.06–1 *Authorization.* Armed cargo vessels of the United States may accept, transport, carry, convey, store, stow or use such high explosives as are necessary for such armament when said high explosives are accepted, transported, carried, conveyed, stored, stowed or used in accordance with the provisions of §§ 147.06–2 to 147.06–5, inclusive.*

*§§ 147.06–1 to 147.06–5, inclusive, issued under the authority contained in R.S. 4472 as amended; 46 U.S.C.; Sup. 170.

§ 147.06–2 *Storage of high explosives.* Magazines shall be provided on board the vessel for the storage of high explosive ammunition (either fixed or separate loaded). Magazines may be located in an upper tween deck or a shelter deck cargo space, or in any other compartment below the weather deck, and adjacent to the gun mount, *provided* such magazines are not located over, under or adjacent to passenger spaces. The maximum separation possible shall be maintained between any magazine and any space allotted to the use of passengers or crew. Magazines shall not be constructed in bearing with the collision bulkhead nor with a bulkhead forming a boiler room, engine room, coal bunker or galley boundary. If it is necessary to construct such magazines in proximity to these bulkheads, a cofferdam space of at least 4 feet shall be provided between the bulkhead and the magazine side. Consistent with the above restrictions magazines shall be constructed in locations selected by the Navy Department. A "ready" supply of shells may be stowed in "ready boxes" on deck adjacent to the gun mount. These "ready boxes" shall be as provided by, or constructed to a design furnished by, the Bureau of Ships, Navy Department.*

§ 147.06–3 *Storage of small-arms ammunition.* Small-arms ammunition having all the component parts necessary for one firing, all in one assembly, may be stowed in boxes or lockers in a location adjacent to the gun mounts, such location to be selected by the Navy Department. Boxes or lockers for the stowage of small-arms ammunition shall be as provided by, or constructed to a design furnished by, the Bureau of Ships, Navy Department.*

§ 147.06–4 *Care of ammunition.* The loading, stowage, handling and use of all ammunition intended for the guns mounted on the vessel shall be under the control of the commander of the armed guard or other representative of the Navy Department.*

§ 147.06–5 *Construction of magazines.* Magazines shall be constructed in accordance with specifications furnished by, or approved by, the Bureau of Ships, Navy Department.*

[SEAL] WAYNE C. TAYLOR,
Acting Secretary of Commerce.

NOVEMBER 17, 1941.

[F. R. Doc. 41–8635; Filed, November 18, 1941; 11:52 a. m.]

Notices

DEPARTMENT OF STATE.

TRADE-AGREEMENT NEGOTIATIONS WITH ICELAND

PUBLIC NOTICE

Pursuant to section 4 of an act of Congress approved June 12, 1934, entitled "An Act to Amend the Tariff Act of 1930", as extended by Public Resolution 61, approved April 12, 1940, and to Executive Order 6750, of June 27, 1934, I hereby give notice of intention to negotiate a trade agreement with the Government of Iceland.

All presentations of information and views in writing and applications for supplemental oral presentation of views with respect to the negotiation of such agreement should be submitted to the Committee for Reciprocity Information in accordance with the announcement of this date issued by that Committee concerning the manner and dates for the submission of briefs and applications, and the time set for public hearings.

[SEAL] CORDELL HULL,
Secretary of State.

NOVEMBER 17, 1941.

[F. R. Doc. 41–8605; Filed, November 17, 1941; 4:05 p. m.]

Committee for Reciprocity Information.

TRADE-AGREEMENT NEGOTIATIONS WITH ICELAND

PUBLIC NOTICE

Closing date for submission of briefs, December 8, 1941; closing date for application to be heard, December 8, 1941; public hearings open, December 15, 1941.

The Committee for Reciprocity Information hereby gives notice that all information and views in writing, and all applications for supplemental oral presentation of views, in regard to the negotiation of a trade agreement with the Government of Iceland, of which notice of intention to negotiate has been issued by the Secretary of State on this date, shall be submitted to the Committee for Reciprocity Information not later than 12 o'clock noon, December 8, 1941. Such communications should be addressed to "The Chairman, Committee for Reciprocity Information, Tariff Commission Building, Eighth and E Streets NW., Washington, D. C."

[1] *Infra.*

A public hearing will be held beginning at 10 a. m. on December 15, 1941, before the Committee for Reciprocity Information in the hearing room of the Tariff Commission in the Tariff Commission Building, where supplemental oral statements will be heard.

Six copies of written statements, either typewritten or printed, shall be submitted, of which one copy shall be sworn to. Appearance at hearings before the Committee may be made only by those persons who have filed written statements and who have within the time prescribed made written application for hearing, and statements made at such hearings shall be under oath.

By direction of the Committee for Reciprocity Information this 17th day of November 1941.

E. M. WHITCOMB,
Acting Secretary.

NOVEMBER 17, 1941.

List of Products on Which the United States Will Consider Granting Concessions to Iceland

NOTE: The rates of duty indicated are those now applicable to products of Iceland. Where the rate is one which has been reduced pursuant to a previous trade agreement by 50 percent (the maximum permitted by the Trade Agreements Act) it is indicated by the symbol MR. Where the rate represents a reduction pursuant to a previous trade agreement, but less than a 50-percent reduction, it is indicated by the symbol R. Where a rate has been bound against increase, but has not been reduced in a previous trade agreement, it is indicated by the symbol B; likewise, items which have been bound free of duty are indicated by the symbol B.

For the purpose of facilitating identification of the articles listed, reference is made in the list to the paragraph numbers of the tariff schedules of the Tariff Act of 1930.

In the event that articles which are at present regarded as classifiable under the descriptions included in the list are excluded therefrom by judicial decision or otherwise prior to the conclusion of the agreement, the list will nevertheless be considered as including such articles.

United States Tariff Act of 1930, Paragraph	Description of article	Present rate of duty	Symbol
717 (c)	Fish, dried and unsalted:		
	Cod, haddock, hake, pollock, and cusk	2½c per lb.	
	Other	1¼c per lb.	
718 (a)	Fish (other than tuna), prepared or preserved in any manner, when packed in oil or in oil and other substances:		
	When of a value not exceeding 9 cents per pound including the weight of the immediate container only.	44% ad valorem.	
	Other	30% ad valorem.	
718 (b)	Fish (other than salmon), prepared or preserved in any manner, when packed in airtight containers weighing with their contents not more than fifteen pounds each (except fish packed in oil or in oil and other substances):		
	Herring, smoked or kippered or in tomato sauce, packed in immediate containers weighing with their contents more than one pound each.	15% ad valorem	R
	Other	25% ad valorem.	
719	Fish, pickled or salted (except fish packed in oil or in oil and other substances and except fish packed in airtight containers weighing with their contents not more than fifteen pounds each):		
	(2) Cod, haddock, hake, pollock, and cusk, neither skinned nor boned (except that the vertebral column may be removed):		
	When containing not more than 43 per centum of moisture by weight.	⅝¢ per lb	MR
	When containing more than 43 per centum of moisture by weight.	⅜¢ per lb	MR
	(4) Herring, whether or not boned:		
	In bulk or in immediate containers weighing with their contents more than fifteen pounds each.	½¢-1¢ per lb. net weight	[1]R
	In immediate containers (not airtight) weighing with their contents not more than fifteen pounds each.	25% ad valorem.	
720 (a)	Fish, smoked or kippered (except fish packed in oil or in oil and other substances and except fish packed in airtight containers weighing with their contents not more than fifteen pounds each):		
	(6) Other fish	25% ad valorem.	
721 (d)	Caviar and other fish roe for food purposes:		
	Other than sturgeon	20c per lb.	
	Any of the foregoing roe, if boiled and packed in airtight containers, whether or not in bouillon or sauce.	30% ad valorem.	
1519(a)	Dressed furs and dressed fur skins, not dyed:		
	Lamb and sheep (except caracul and Persian lamb)	15% ad valorem	R
1685	Fish scrap and fish meal of a grade used chiefly for fertilizers, or chiefly as an ingredient in the manufacture of fertilizers.	Free	B
1730(b)	Cod oil and cod-liver oil	Free.	
1780	Fish scrap and fish meal, unfit for human consumption	Free.	

[1] In part.

[F. R. Doc. 41-8604; Filed, November 17, 1941; 4:05 p. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. B-7]

IN THE MATTER OF J. F. MARLOWE & CO., REGISTERED DISTRIBUTOR, REGISTRATION NO. 5972, RESPONDENT

ORDER POSTPONING HEARING AND EXTENDING TIME OF RESPONDENT TO FILE ANSWER

The above-entitled matter having been previously scheduled for hearing at 10 a. m. on November 28, 1941, at a hearing room of the Bituminous Coal Division, Room 245, United States Court House, Nashville, Tennessee; and

It appearing to the Director that it is advisable to postpone said hearing to a later date and to extend the time within which the respondent must file its answer;

Now, therefore, it is ordered, That the time for the filing by the respondent in the above-entitled matter of its answer herein be, and the same hereby is, extended to and including December 29, 1941; and

It is further ordered, That the hearing in the above-entitled matter be, and the same hereby is, postponed from 10 o'clock in the forenoon of November 28, 1941, to a date and at a hearing room to be hereafter designated by an appropriate Order of the Director.

Dated: November 15, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-8608; Filed, November 18, 1941; 10:41 a. m.]

[Docket No. B-15]

IN THE MATTER OF THE OAKLAND COAL COMPANY, REGISTERED DISTRIBUTOR, REGISTRATION NO. 6934, RESPONDENT

ORDER POSTPONING HEARING AND EXTENDING TIME OF RESPONDENT TO FILE ANSWER

The above-entitled matter having been previously scheduled for hearing at 10 a. m. on November 17, 1941, at a hearing room of the Bituminous Coal Division at the Commodore Perry Hotel, Toledo, Ohio; and

It appearing to the Director that it is advisable to postpone said hearing to a later date and to extend the time within which the respondent must file its answer; and

Lewis J. Gifford, President of the Oakland Coal Company, Toledo, Ohio, and Frank J. Reis, Secretary of the Gallant Lumber and Coal Company, Toledo, Ohio, heretofore having been duly served with subpoenae requiring each of them

to testify and give evidence in the above-entitled matter and to produce and bring with each of them certain books and records;

Now, therefore, it is ordered, That the time for the filing by the respondent in the above-entitled matter of its answer herein be, and the same hereby is, extended to and including December 17, 1941; and

It is further ordered, That the hearing in the above-entitled matter be, and the same hereby is, postponed from 10 o'clock in the forenoon of November 17, 1941, to a date and at a hearing room to be hereafter designated by an appropriate Order of the Director; and

It is further ordered, That Lewis J. Gifford, President of the Oakland Coal Company, and Frank J. Reis, Secretary of the Gallant Lumber and Coal Company, appear before the designated officers at the time and place of hearing to be hereafter designated by an appropriate Order of the Director.

Dated: November 15, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-8609; Filed, November 18, 1941; 10:41 a. m.]

[Docket No. B-6]

IN THE MATTER OF THE CLYDE H. HOYT COMPANY, REGISTERED DISTRIBUTOR, REGISTRATION NO. 4566, RESPONDENT

ORDER POSTPONING HEARING AND EXTENDING TIME OF RESPONDENT TO FILE ANSWER

The above-entitled matter having been previously scheduled for hearing at 10 a. m. on November 22, 1941, at a hearing room of the Bituminous Coal Division at the Commodore Perry Hotel, Toledo, Ohio; and

It appearing to the Director that it is advisable to postpone said hearing to a later date and to extend the time within which the respondent must file its answer; and

Clyde H. Hoyt, Secretary-Treasurer of the Clyde H. Hoyt Company, Toledo, Ohio, and George W. Harsh, President of the Blue Line Fuel Company, heretofore having been duly served with subpoenae requiring each of them to testify and give evidence in the above-entitled matter and to produce and bring with each of them certain books and records;

Now, therefore, it is ordered, That the time for the filing by the respondent in the above-entitled matter of its answer herein be, and the same hereby is, extended to and including December 22, 1941; and

It is further ordered, That the hearing in the above-entitled matter be, and the same hereby is, postponed from 10 o'clock in the forenoon of November 22, 1941, to a date and at a hearing room to be hereafter designated by an appropriate Order of the Director; and

It is further ordered, That Clyde H. Hoyt, Secretary-Treasurer of the Clyde H. Hoyt Company, and George W. Harsh, President of the Blue Line Fuel Company, appear before the designated officers at the time and place of hearing to be hereafter designated by an appropriate Order of the Director.

Dated: November 15, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-8610; Filed, November 18, 1941; 10:41 a. m.]

[Docket No. 1710-FD]

IN THE MATTER OF HOLLOW ROCK COAL COMPANY, DEFENDANT

ORDER REVOKING AND CANCELLING CODE MEMBERSHIP

A complaint having been filed on June 2, 1941, pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, by District Board 4, with the Bituminous Coal Division, alleging wilful violation by the Hollow Rock Coal Company, a code member in District 4, the defendant, of the Bituminous Coal Code or rules and regulations thereunder as follows:

That the defendant, with full knowledge of the requirements of the Schedule of Effective Minimum Prices for District No. 4 for Truck Shipments sold, during December 1940, approximately 275 tons of ½" lump coal produced at its Hollow Rock Mine, Mine Index No. 190, located in Jefferson County, Ohio, for shipment by truck to the Kaul Clay Manufacturing Company at $2.40 per ton delivered, whereas the applicable effective minimum price established for such coal was $2.20 per net ton f. o. b. the mine, and the cost of transporting said coal was 40 cents per ton;

Pursuant to an Order of the Director and after due notice to all interested persons, a hearing in this matter having been held on August 21, 1941, before a duly designated Examiner of the Division at a hearing room thereof in Pittsburgh, Pennsylvania, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard, and at which the defendant appeared;

The preparation and filing of a report by the Examiner having been waived and the record in the proceeding having thereupon been submitted to the undersigned;

The undersigned having made Findings of Fact and Conclusions of Law and having rendered an Opinion in the matter, which are filed herewith; [1]

Now, therefore, it is ordered, That the code membership of the defendant, The Hollow Rock Coal Company, a code member in District 4, be, and it hereby is revoked and cancelled.

It is further ordered, That prior to any reinstatement of the defendant, The Hollow Rock Coal Company, to membership in the Code, the defendant shall pay to the United States a tax in the amount of $250.24 as provided in section 5 (c) of the Bituminous Coal Act of 1937.

Dated: November 15, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-8611; Filed, November 18, 1941; 10:41 a. m.]

[1] Not filed with the original document.

[Docket No. 1803-FD]

IN THE MATTER OF EARL BICKMEIER, DEFENDANT

ORDER REVOKING AND CANCELLING CODE MEMBERSHIP

A complaint having been filed with the Bituminous Coal Division, pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, by District Board 4, alleging wilful violation by Earl Bickmeier, a code member in District 4, the defendant, of the Bituminous Coal Code and rules and regulations thereunder as follows:

That the defendant, with full knowledge of the requirements contained in the Schedule of Effective Minimum Prices for District No. 4 for Truck Shipments, sold for shipments by truck, from November 1940 through February 1941, 1085 tons of ¾" x 0 slack coal (Size Group 8) at a delivered price of $1.50 per net ton, whereas the effective minimum price f. o. b. the mine applicable thereto was $1.90 per net ton;

Pursuant to an Order of the Director and after notice to all interested persons, a hearing in this matter having been held on October 8, 1941, before W. A. Cuff, a duly designated Examiner of the Division, at a hearing room thereof in Canton, Ohio, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard, and at which District Board 4 and the defendant appeared;

All parties having joined in waiving the preparation and filing of a report by the Examiner, and the record in the proceeding having thereupon been submitted to the undersigned;

The undersigned having made Findings of Fact and Conclusions of Law and having rendered an Opinion, which are filed herewith; [1]

Now, therefore, it is ordered, That the code membership of the defendant, Earl Bickmeier, be and the same is hereby revoked and cancelled;

It is further ordered, That, prior to any reinstatement of the defendant, Earl Bickmeier, to membership in the Code, he shall pay to the United States a tax in the amount of $719.32, as provided in section 5 (c) of the Bituminous Coal Act of 1937.

Dated: November 15, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-8612; Filed, November 18, 1941; 10:42 a. m.]

[Docket No. 1701–FD]

IN THE MATTER OF IVAN SHAW AND SON, DEFENDANT

ORDER REVOKING AND CANCELLING CODE MEMBERSHIP

A complaint having been filed on June 2, 1941, with the Bituminous Coal Division, pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, by District Board 4, alleging wilful violation by Ivan Shaw & Son, a code member in District 4, of the Bituminous Coal Code and the Rules and Regulations thereunder as follows:

That the defendant, between October 1, 1940, and January 7, 1941, (a) sold a quantity of nut and slack coal in excess of 2'' x 0 produced at Mine Index No. 1531 located in Coshocton County, Ohio, in District 4 to the Muskingum Fibre Company and to the Novelty Advertising Company, both of Coshocton, Ohio, at a truck delivered price of $2.00 per ton, whereas the effective minimum price for said coal was $1.95 per ton f. o. b. the mine, and (b) sold a quantity of 2'' nut and slack coal produced at the Willowbrook Mine (Mine Index No. 2407), located in Coshocton County, Ohio, to the Muskingum Fibre Company at Coshocton, Ohio, at a truck delivered price of $2.00 per ton, whereas the effective minimum price for such coal was $1.65 per ton f. o. b. the mine;

An answer having been filed by the defendant on August 8, 1941, denying the allegations of the complaint;

Pursuant to an Order of the Director and after due notice to all interested persons, a hearing in this matter having been held on September 22, 1941, before a duly designated Examiner of the Division at a hearing room thereof in Coshocton, Ohio, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard and at which the defendant appeared;

At the conclusion of the hearing, the preparation and filing of a report by the Examiner having been waived and the record in the proceeding having thereupon been submitted to the undersigned;

The undersigned having made Findings of Fact and Conclusions of Law and having rendered an Opinion, which are filed herewith;[1]

Now, therefore, it is ordered, That the code membership of the defendant, Ivan Shaw & Son, operating in Coshocton, Ohio, in District 4, be, and it is hereby revoked and cancelled.

It is further ordered, That prior to any reinstatement of the defendant, Ivan Shaw & Son, a partnership, or any of the partners thereof, to membership in the Code, the defendant, or any of the partners thereof, shall pay to the United States a tax in the amount of $243.36, as provided in section 5 (c) of the Bituminous Coal Act of 1937.

Dated: November 15, 1941.

[SEAL] H. A. GRAY, *Director.*

[F. R. Doc. 41-8613; Filed, November 18, 1941; 10:42 a. m.]

[Docket No. 1689–FD]

IN THE MATTER OF NATIONAL COAL COMPANY, INC., DEFENDANT

ORDER REVOKING AND CANCELLING CODE MEMBERSHIP

A complaint having been filed with the Bituminous Coal Division (the "Division") on May 17, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937 (the "Act"), by the Bituminous Coal Producers Board for District No. 12, alleging *inter alia* that the defendant, National Coal Company, Inc., a code member in District No. 12, operating Mine Index No. 33, in Mahaska County, Iowa, wilfully violated the Act, the Code promulgated thereunder, (the "Code") and certain Orders and Rules and Regulations of the Division;

Pursuant to an Order of the Director, and after due notice to all interested parties, a hearing having been held in this matter on September 8, 1941, at Oskaloosa, Iowa;

All parties having joined in waiving of the preparation and filing of a report by the Examiner, and a record of the proceedings thereupon having been transmitted to the Director for his consideration, and from a review of the record it appearing that the defendant violated the following provisions of the Act, and certain Orders and Rules and Regulations of the Division and that the allegations contained in said complaint are substantiated to that extent;

1. Section 4 II (e) of the Act, Part II (e) of the Code and the Schedule of Effective Minimum Prices for District No. 12 for All Shipments Except Truck, by selling to the Iowa Power and Light Company, and delivering to the Des Moines Electric Light Company at Des Moines, Iowa, 5,806.75 net tons of screenings, Size Group No. 8, produced at the aforesaid mine during the periods, in the amounts, and at the prices per net ton f. o. b. the mine, as herinafter set forth:

(a) During the period October 11, 1940, to April 25, 1941, both dates inclusive, 716.95 net tons of coal at a delivered price of $2.30 per net ton less 60 cents freight, or a net price of $1.70 per net ton f. o. b. the mine.

(b) During the period December 30, 1940, to January 28, 1941, both dates inclusive, 1,348.40 net tons of coal at a delivered price of $2.34 per net ton less 60 cents freight, or a net price of $1.74 per net ton f. o. b. the mine.

(c) During the period January 28, 1941, to March 6, 1941, both dates inclusive, 964.95 net tons of coal at a price of $2.38 per net ton less 60 cents freight, or a net price of $1.78 per net ton f. o. b. the mine.

(d) During the period October 10, 1940, to March 27, 1941, both dates inclusive, 2,776.45 net tons of coal at a delivered price of $2.42 per net ton less 60 cents freight, or a net price of $1.82 per net ton f. o. b. the mine;

2. Paragraph 8 of section 4 II (i) of the Act, Paragraph 8 of Part II (i) of the Code, and Rule 8 of section XIII of the Marketing Rules and Regulations, by intentionally making, causing, or permitting to be made, a false, untrue, misleading and deceptive statement by way of invoices concerning the size, quality, character, nature, and preparation of the coals set forth in Paragraph 1 hereof;

3. Rule 2 of section XII of the Marketing Rules and Regulations, in that the aforesaid coal was not sold under the proper size and price classification and other designations thereof in the applicable minimum price schedule published by the Division;

The Director having made Findings of Fact and Conclusions of Law, and having rendered an Opinion, which are filed herewith,[1] in which it is concluded that the defendant's code membership should be cancelled and revoked;

Now, therefore, it is ordered, That the code membership of the defendant, National Coal Company, Inc., a code member in District No. 12, be and it is hereby revoked.

And, it is further ordered, That as a condition to the reinstatement of the defendant, National Coal Company, Inc. to membership in the Code, there shall be paid to the United States a tax, as provided in section 5 (c) of the Act, in the amount of $4,393.39.

Dated: November 17, 1941.

[SEAL] H. A. GRAY, *Director.*

[F. R. Doc. 41-8614; Filed, November 18, 1941; 10:42 a. m.]

[Docket No. 1671–FD]

IN THE MATTER OF FOREST CITY COAL COMPANY, REGISTERED DISTRIBUTOR, REGISTRATION NO. 3092, RESPONDENT

ORDER SUSPENDING DISTRIBUTOR'S REGISTRATION

This proceeding having been instituted by the Bituminous Coal Division, pursuant to the provisions of the Bituminous Coal Act of 1937, and § 304.14 of the Rules and Regulations for the Registration of Distributors, by a Notice of and Order for Hearing dated July 28, 1941, to determine whether the Forest City Coal Company, a Registered Distributor, Registration No. 3092, of Cleveland, Ohio, has

[1] Not filed with the original document.

violated the Bituminous Coal Act of 1937, or the Rules and Regulations thereunder and giving notice to said distributor that information in the possession of the Division was to the following effect:

That on or about February 11, 1941, and during the period March 4 to March 20, 1941, the respondent purchased seven carloads of coal from Industrial Coal & Iron Company, Pittsburgh, Pennsylvania, and other code members in District 4, and resold and delivered said coal to United Milk Products Company of Cleveland, Ohio at its Kent, Ohio plant, the respondent prepaying transportation charges thereon to the point of delivery and accepting discounts from the effective minimum prices for such coal in violation of section 4 II (h) and subsections 3 and 6 of section 4 II (i) of the Act, Rule 1 (J) of section VII of the Marketing Rules and Regulations, and paragraphs (c) and (e) of the Distributor's Agreement;

Personal service of Notice of and Order for Hearing having been made on the respondent on August 4, 1941; a hearing having been held on September 12 and 13, 1941, before a duly designated Examiner of the Division, in Cleveland, Ohio, at which all interested parties were afforded an opportunity to be present and fully participate;

The Examiner's report having been waived and the matter thereupon having been submitted to the undersigned;

The undersigned having made Findings of Fact and Conclusions of Law and having rendered an Opinion in this matter which are filed herewith;[1]

Now, therefore, it is ordered, That the registration of the Forest City Coal Company, Registered Distributor, Registration No. 3092, be and it hereby is suspended for a period of thirty (30) days from the effective date of this order, and the respondent, its officers, representatives, agents, servants, employees and attorneys be and they hereby are prohibited from receiving or accepting any discounts as a registered distributor, either directly or indirectly, on coal purchased by them during period of suspension; *Provided, however,* That if respondent shall not have complied with the provisions of § 304.15 of the Rules and Regulations for the Registration of Distributors within said period of suspension, said suspension shall continue in full force and effect until five (5) days after the affidavit required by § 304.15 shall have been filed with the Division; and *Provided further,* That the respondent return to the code member producers all improperly collected discounts and that a statement by respondent that such refunds have been made shall be included in the affidavit.

And it is further ordered, That the respondent during such period of suspension shall fully observe, abide by and remain in all respects subject to all pertinent and applicable provisions of (1) the Bituminous Coal Act of 1937; (2) the Bituminous Coal Code; (3) the Marketing Rules and Regulations; (4) the Rules and Regulations for the Registration of Distributors; (5) the Distributor's Agreement and all Orders of the Division.

Dated: November 15, 1941.

[SEAL] H. A. GRAY,
Director.

[1] Not filed with the original document.

[F. R. Doc. 41-8615; Filed, November 18, 1941; 10:42 a. m.]

[Docket No. 1674-FD]

IN THE MATTER OF TAGGART COAL SALES COMPANY, REGISTERED DISTRIBUTOR, REGISTRATION NO. 8905, RESPONDENT

ORDER SUSPENDING REGISTRATION OF DISTRIBUTOR

This proceeding having been instituted by the Bituminous Coal Division, pursuant to the Bituminous Coal Act of 1937, in order to investigate and determine whether Taggart Coal Sales Company, a registered distributor (Registration No. 8905), of Massillon, Ohio, had violated certain provisions of the Rules and Regulations for the Registration of Distributors by:

(1) Purchasing on December 8 and 28, 1940, approximately 11 tons and 7.65 tons of coal, respectively, produced at the Sandy Valley Coal Company, a code member in District 4, and reselling this coal to the Griscom Russell Company, Massillon, Ohio, and accepting and retaining discounts thereon of 15 cents per ton, which discounts are in excess of the allowable maximum discount of 12 cents.

(2) Accepting and retaining discounts on the sales referred to in (1) although this coal was purchased and resold in less than railroad carload lots.

(3) Purchasing between December 1 and 16, 1940, 616.3 tons of coal produced at the Sandy Valley Coal Company and reselling it to the Timken Roller Bearing Company, Toledo, Ohio, and accepting and retaining discounts thereon of 15 cents per ton, which discounts are in excess of the allowable maximum discount of 12 cents;

The respondent, having filed an answer, admitting having accepted the alleged discounts on the 11 tons of coal resold to Griscom Russell Company and the 616.3 tons of coal resold to Timken Roller Bearing Company;

A hearing in this matter having been held on September 25, 1941, before W. A. Cuff, a duly designated Examiner of the Division, at a hearing room thereof in Canton, Ohio, pursuant to the Order of August 9, 1941, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard and the respondent appeared;

The preparation and filing of a report by the Examiner having been waived and the record in the proceeding thereupon having been submitted to the undersigned;

The undersigned having made Findings of Fact and Conclusions of Law and having rendered an Opinion, which are filed herewith;[1]

Now, therefore, it is ordered, That the registration of the defendant, Taggart Coal Sales Company, a registered distributor (Registration No. 8905), be and it hereby is suspended for a period of thirty (30) days beginning with the date of this Order.

It is further ordered, That the effect of such suspension shall not be evaded directly or indirectly by the use of any device and that such suspension shall not excuse the Taggart Coal Sales Company from all duties and functions imposed upon it by the Act and the Rules, Regulations, and Orders of the Division.

It is further ordered, That as a condition to reinstatement, in accordance with § 304.15 of the Distributors' Rules, the respondent shall submit, at least five (5) days prior to the expiration of the suspension period, to the Director of the Division, an affidavit verifying that during the period of its suspension said respondent has neither directly nor indirectly transacted business as a registered distributor, nor received nor been promised any discount which distributors are entitled to receive by virtue of registration.

Dated: November 15, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-8616; Filed, November 18, 1941; 10:42 a. m.]

[Docket No. A-917]

PETITION OF KEYSTONE MINING COMPANY, A CODE MEMBER IN DISTRICT NO. 1, FOR THE REVISION OF THE EFFECTIVE MINIMUM PRICES FOR THE SIZE GROUP 3 COALS OF MINE INDEX NOS. 251 AND 451 FOR RAILROAD FUEL USE, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

ORDER DISMISSING PETITION

The original petitioner in the above-entitled matter having moved that its petition therein be dismissed without prejudice, and there having been no opposition thereto;

Now, therefore, it is ordered, That the original petition in the above-entitled matter be dismissed without prejudice.

Dated: November 15, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-8617; Filed, November 18, 1941; 10:42 a. m.]

[Docket No. A–1140]

PETITION OF J. E. VINCENT FOR CHANGE IN LOADING POINT OF HIS MARION MINE, MINE INDEX NO. 331, IN DISTRICT NO. 3, FOR ALL SHIPMENTS EXCEPT TRUCK

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting a change in the loading point of his Marion Mine, Mine Index No. 331, in District No. 3, from Fairmont, West Virginia, on Baltimore & Ohio Railroad to Fairmont, West Virginia, on Monongahela Railway, for all shipments except truck; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

Now, therefore, it is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, the price classifications and minimum prices effective for the coals of the Marion Mine, Mine Index No. 331, of J. E. Vincent, for rail shipments on Baltimore & Ohio Railroad from Fairmont, West Virginia, shall be applicable only to shipments on Monongahela Railway from Fairmont, West Virginia, and shall no longer be applicable for shipments from Fairmont, West Virginia, on Baltimore & Ohio Railroad. All allowances or adjustments required or permitted mines in Freight Origin Group No. 52 shall be applicable to all shipments of the coals of the Marion Mine, Mine Index No. 331, of J. E. Vincent from Fairmont Siding on Monongahela Railway.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless it shall otherwise be ordered.

Dated: November 15, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–8618; Filed, November 18, 1941; 10:43 a. m.]

APPLICATIONS FOR REGISTRATION AS DISTRIBUTORS

An application for registration as a distributor has been filed by each of the following and is under consideration by the Director:

Name and address	*Date application filed*
G. E. Brownwell, City Coal Co., Bryan, Ohio	Nov. 3, 1941
Ralph W. Daykin, 1666 Woodwbrd Ave., Lakewood, Ohio	Oct. 31, 1941
Henriette Coal Mng. Co., 15 Moore St., New York, N. Y.	Oct. 24, 1941
Martin County Coal Corp., 201 Lewis Arcade, Huntington, W. Va	Nov. 6, 1941
Reilly Coal Sales Co., Spangler, Pa	Nov. 4, 1941

Any district board, code member, distributor, the Consumers' Counsel, or any other interested person, who has pertinent information concerning the eligibility of any of the above-named applicants for registration as distributors under the provisions of the Bituminous Coal Act and the Rules and Regulations for the Registration of Distributors, is invited to furnish such information to the Division on or before December 15, 1941. This information should be mailed or presented to the Bituminous Coal Division, 734 15th Street NW., Washington, D. C.

Dated: November 14, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–8619; Filed, November 18, 1941; 10:43 a. m.]

[Docket No. A–1040]

PETITION OF BOVARD COAL CO., A CODE MEMBER IN DISTRICT NO. 1, FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR ALL SHIPMENTS FOR COAL PRODUCED AT ITS RIMER MINE

MEMORANDUM OPINION AND ORDER GRANTING TEMPORARY RELIEF

This is a proceeding instituted upon an original petition filed by Bovard Coal Company, a code member in District No. 1, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937. Petitioner requests the establishment of price classifications and minimum prices for the coals of its Rimer Mine in District No. 1 for all shipments except truck from Brady's Bend, Pennsylvania. Pursuant to a Notice of and Order for Hearing dated September 24, 1941, a hearing was held on October 23, 1941, before a duly designated Examiner of the Division. As no price classifications or minimum prices have been established for the coals of petitioner's Rimer Mine for rail shipment, it is necessary that such price classifications and mine prices be established temporarily, pending final disposition of this proceeding, in order to preserve for petitioner and its competitors their existing fair competitive opportunities.

It appears from the testimony adduced at the hearing that petitioner does not prepare coal in Size Groups 1 and 2 and does not now have facilities for preparing coal in Size Group 5. It further appears that petitioner requests the same price classifications as have already been established in Size Groups 3 and 4 for coals of the Fox Mine (Mine Index No. 2989) of the Rimersburg Coal Mining Company. The witness Fair stated that the Fox Mine is adjacent to the Rimer Mine, and the petition alleges that the coals of these mines are of similar quality. Pending final disposition of this proceeding the price classifications requested for Size Groups 3 and 4 for rail shipment should be established for coals of the Rimer Mine.

A difficult problem is presented by petitioner's request for permission to make rail shipments on Western Allegheny Railroad from Brady's Bend. From the testimony adduced at the hearing it appears that petitioner's crusher and loading facilities are at Brady's Bend and that petitioner desires to make rail shipments on the Western Allegheny Railroad from that point in order to serve certain customers in Meadville and Erie, Pennsylvania (in Market Area 10). Brady's Bend is in District No. 2, approximately 10 miles from the Rimer Mine. There are several nearer loading points on other railroads which petitioner might use, for example, Rimersburg, Pennsylvania, in District No. 1, approximately 3.7 miles from the Rimer Mine, on the Pennsylvania Railroad. The witness Fair stated at the hearing that petitioner would prefer to use Rimersburg if it were required to ship over the Pennsylvania Railroad.

It seems that the freight rates to Meadville and Erie are higher from Rimersburg than from Brady's Bend.[1] This results in a delivered differential in favor of District 2 producers on shipments into Market Area 10. In General Docket No. 15, after extensive public hearings, it was decided that District 1 producers had no such "existing fair competitive opportunities" in Market Area 10 as necessitated the allowance to them of freight rate absorptions on shipments into that market area. Petitioner's request represents a sharp break with the coordination established in General Docket No. 15 and should not be granted as a matter of temporary relief in the absence of a very strong showing. Such a showing does not seem to have been made.

Moreover, if petitioner's request is granted, it will receive preferential treatment over other District 1 producers, who must ship into Market Area 10 at the higher freight rate. The record does not reveal any reason for giving the Rimer

[1] To Meadville the published freight rate from Brady's Bend appears to be $1.23, from Rimersburg, $2.24; to Erie, the published freight rate from Brady's Bend is $1.49, from Rimersburg, $2.05.

Mine such special treatment as a matter of temporary relief.

Upon the basis of the foregoing considerations, I am of the opinion that pending final disposition of this mattter, minimum prices should be established for rail shipments from petitioner's Rimer Mine only via the Pennsylvania Railroad from Rimersburg, Pennsylvania. Pending the final disposition of this proceeding, the temporary relief granted will make available to the Rimer Mine those markets in which District 1 coals have customarily been sold.

It is, therefore, ordered, That, pending final disposition of this proceeding, temporary relief be granted as follows: Commencing forthwith, the Schedule of Effective Minimum Prices for District No. 1 For All Shipments Except Truck is supplemented by including a "G" classification in Size Group 3 and an "H" classification in Size Group 4 for the coals of the Rimer Mine (Mine Index No. 902) of the Bovard Coal Company. Such shipments shall be made on the Pennsylvania Railroad from Rimersburg, Pennsylvania, and all adjustments required or permitted mines in Freight Origin Group 90 shall be applicable thereto.

Notice is hereby given that motions to stay, terminate or modify the temporary relief granted in this order may be made pursuant to the Rules and Regulations of the Bituminous Coal Division for proceedings under section 4 II (d) of the Bituminous Coal Act of 1937.

Nothing herein shall be taken as an expression of the views of the Director concerning the final disposition of this proceeding.

Dated: November 14, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-8620; Filed, November 18, 1941; 10:43 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20, 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393).

Textile Learner Regulations, May 16, 1941 (6 F.R. 2446).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective November 18, 1941. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificates. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PROLUCT, NUMBER OF LEARNERS AND EXPIRATION DATE

The following certificates at the rate of 75% of the applicable hourly minimum wage.

Apparel

Helmer Manufacturing Company, Ore Street, Bowmanstown, Pennsylvania; Dresses; 37 learners; June 8, 1942.

Signed at Washington, D. C., this 18th day of November 1941.

MERLE D. VINCENT,
Authorized Representative, of the Administrator.

[F. R. Doc. 41-8631; Filed, November 18, 1941; 11:47 a. m.]

FEDERAL SECURITY AGENCY.

Food and Drug Administration.

[Docket No. FDC-34]

IN THE MATTER OF A DEFINITION AND STANDARD OF IDENTITY FOR EACH OF THE FOLLOWING FOODS: ICE CREAM; FROZEN CUSTARD; SHERBET; WATER ICES; AND RELATED FOODS

POSTPONEMENT OF HEARING

Pursuant to the application of International Association of Ice Cream Manufacturers for a postponement of the hearing in the above entitled proceeding, it is hereby ordered that the public hearing for the purpose of receiving evidence upon the basis of which regulations may be promulgated fixing and establishing definitions and standards of identity for ice cream, frozen custard, sherbet, water ices, and related foods, heretofore announced to commence on December 1, 1941 (6 F.R. 5574), be postponed to commence at 10 o'clock in the morning of January 5, 1942, in Room 1039, South Building, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C.

THOMAS C. BILLIG,
Presiding Officer.

NOVEMBER 15, 1941.

[F. R. Doc. 41-8624; Filed, November 18, 1941; 11:26 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 812-228]

IN THE MATTER OF WESTERN NEW YORK FUND, INCORPORATED

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of November, A. D. 1941.

An application having been duly filed by the above named corporation for an order of the Commission under and pursuant to the provisions of sections 6 (c) and 23 (c) of the Investment Company Act of 1940 requesting a temporary exemption from the provisions of Rule N-23-1 to the extent that said rule requires the applicant to inform its stockholders in writing of its intention to purchase its own outstanding stock prior to the mailing to stockholders of the notice of the annual stockholders' meeting in January 1942;

It is ordered, That a hearing on the matter of this application be held on November 24, 1941, at 10:00 o'clock in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise the interested parties where such hearing will be held.

It is further ordered, That Robert P. Reeder, Esquire or any officer or officers of the Commission designated by it for that purpose shall preside at such hearing on such application. The officer so designated to preside at any such hearing is hereby authorized to exercise all of the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to trial examiners under the Commission's Rules of Practice.

Notice of such hearing is hereby given to the above named applicant and to any other person or persons whose participation in such proceedings may be in the public interest or for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-8627; Filed, November 18, 1941; 11:42 a. m.]

[File No. 70-433]

IN THE MATTER OF PUBLIC SERVICE COMPANY OF INDIANA, INC.

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 17th day of November, A. D. 1941.

Notice is hereby given that a declaration or application has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named party; and

Notice is further given that any interested person may not later than November 30, 1941 at 4:45 P. M. E. S. T. request the Commission in writing that a hearing be held on such matters, stating the reason for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as amended, may become effective as provided in Rule U-23 of the rules and regulations promulgated pursuant to said Act, or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration or application which is on file in the office of said Commission for a statement of the transactions therein proposed which are summarized below:

Public Service Company of Indiana, Inc., proposes to issue and sell:

1. $42,000,000 Principal Amount of its First Mortgage Bonds, Series D, 3⅜%, due December 1, 1971, and

2. Either (a) $10,000,000 aggregate Principal Amount of its Serial Debentures due December 1, 1942—December 1, 1950, or (b) to borrow $10,000,000 and to issue to the lender or lenders thereof its notes in said amount maturing serially from December 1, 1942 to December 1, 1950.

Public Service Company of Indiana, Inc., states that the proceeds of the sale of the above securities will be used (1) to call for redemption the now outstanding $38,000,000 aggregate Principal Amount of its First Mortgage Bonds, Series A, 4%, due September 1, 1959, (2) to pay and retire $8,800,000 Principal Amount of the Serial Debentures 3⅞% due March 1, 1942–September 1, 1949, (3) to pay and retire $400,000 aggregate Principal Amount of Northern Indiana Power Company's Serial Notes, 3%, assumed by Public Service Company of Indiana, Inc., (4) to pay $396,923.05 aggregate Principal Amount of Central Indiana Power Company's Collateral Notes, 2.73%, which were issued to United States of America as evidence of loans and which have been assumed by Public Service Company of Indiana, Inc., and (5) to aid the Company in carrying out a proposed major construction program.

Public Service Company of Indiana, Inc., requests that this Commission, in view of the heavy capital expenditures with which the Company is faced in order to carry out the proposed major construction program, abrogate and set aside a condition imposed by the Commission in connection with the issuance and sale by Public Service Company of Indiana, a predecessor company of Public Service Company of Indiana, Inc., of its Series B Bonds (File No. 70-258), which in effect, provides that in addition to the sinking fund provisions of its outstanding long-term debt, it should retire by 1958 $3,859,500 additional amount of its long-term debt.

Public Service Company of Indiana, Inc., states that section 6 (b) of the Holding Company Act of 1935 and Rules U-20 to 24 and Rule U-50 adopted thereunder are applicable to the proposed transactions.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-8628; Filed, November 18, 1941; 11:42 a. m.]

[File No. 70-196]

IN THE MATTER OF THE COMMONWEALTH & SOUTHERN CORPORATION (DELAWARE), AND TENNESSEE UTILITIES CORPORATION

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE AND RELEASING JURISDICTION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of November, A. D. 1941.

The Commonwealth & Southern Corporation (Delaware), a registered holding company, and Tennessee Utilities Corporation, a subsidiary thereof, having filed a declaration pursuant to the Public Utility Holding Company Act of 1935, particularly section 12 (c) thereof and Rule U-46 thereunder regarding the liquidation of Tennessee Utilities Corporation through the payment of an immediate cash dividend to The Commonwealth & Southern Corporation of $3,150,000 and a final liquidating dividend to The Commonwealth & Southern Corporation of the remaining cash of Tennessee Utilities Corporation, consisting of cash, to be derived from liquidation of miscellaneous assets estimated to have a value of approximately $48,000, and cash (not exceeding $60,000) to be temporarily retained by Tennessee Utilities Corporation and which is not necessary for the payment of liabilities and expenses of liquidation. The liquidating dividend of $3,150,000 arises from the sale by Tennessee Utilities Corporation of certain non-utility assets (including transportation properties in and around Chattanooga, Tennessee, and the capital stock of Nashville Coach Company and Lookout Incline Railway Company); The Commonwealth & Southern Corporation proposes to utilize such liquidating dividend for reduction of its liability on notes due banks;

Said declaration having been filed on October 25, 1941, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said Act, and the Commission not having received a request for a hearing with respect thereto within the period specified in such notice, or otherwise, and not having ordered a hearing thereon; and

The above-named declarants having requested that the effective date of said declaration be accelerated in order to permit The Commonwealth & Southern Corporation to effect interest savings; and

The Commission deeming it appropriate in the public interest and in the interest of investors and consumers to permit the said declaration pursuant to section 12 (c) of the said Act and Rule U-46 thereunder to become effective, and being satisfied that the effective date of such declaration should be advanced;

It is hereby ordered, Pursuant to said Rule U-23 and the applicable provisions of said Act and subject to the terms and conditions prescribed in Rule U-24, that the aforesaid declaration be and hereby is permitted to become effective forthwith;

It is further ordered, That pursuant to the reservation of jurisdiction by an Order in the above-entitled matter dated December 11, 1940, jurisdiction be and it is hereby reserved over the final entries to be made in the accounts of The Commonwealth & Southern Corporation to reflect the loss, if any, in connection with the liquidation of The Tennessee Electric Power Company (whose assets in the course of liquidation were transferred to Tennessee Utilities Corporation), pending completion of such studies as may be made with respect thereto by The Commonwealth & Southern Corporation, or until such time as the Commission may, in proceedings now pending, or by institution of proceedings, or otherwise, pass upon such accounting entries.

It is further ordered, That jurisdiction reserved by our Order of August 8, 1939 in the matter of *The Commonwealth & Southern Corporation* (File No. 43-202) as to the ultimate disposition of the assets remaining in The Tennessee Electric Power Company (which assets included the above-mentioned non-utility properties), be, and the same is hereby released.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-8629; Filed, November 18, 1941; 11:42 a. m.]

[File No. 70-425]

IN THE MATTER OF NATHAN A. SMYTH AND LEO LOEB, AS TRUSTEES IN REORGANIZATION UNDER CHAPTER X OF THE BANKRUPTCY ACT OF WASHINGTON GAS AND ELECTRIC COMPANY, DEBTOR

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 17th day of November, A. D. 1941.

Nathan A. Smyth and Leo Loeb, as Trustees in Reorganization Under Chapter X of the Bankruptcy Act of Washington Gas and Electric Company, Debtor, a registered holding company, having filed a declaration pursuant to the Public Utility Holding Company Act of 1935, particularly sections 7 and 12 (c) thereof, and Rule U-42 promulgated thereunder, regarding a proposal by Nathan A. Smyth, as such Trustee, to enter into an agreement with The Chase National Bank of the City of New York as trustee under the mortgage securing the First Mortgage Gold Bonds of the above-named debtor to distribute $5,534,343 out of the sum of $5,900,843.97, now held by said The Chase National Bank of the City of New York in a Release Fund, to the holders of said First Mortgage Bonds; such proposed distribution amounting of 80% of the principal, and interest on such 80% of principal accrued to December 10, 1941; and

Said declaration having been filed on November 4, 1941, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said Act, and the Commission not having received a request for hearing with respect thereto within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

Said declarants having requested that the effective date of said declaration be advanced; and

The Commission deeming that no adverse findings are necessary under section 7 (c) and that it is appropriate in the public interest and in the interest of investors and consumers to permit said declaration to become effective; and

The Commission being satisfied that the effective date of said declaration should be advanced;

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of said Act and subject to the terms and conditions prescribed in Rule U-24, that the aforesaid declaration be and the same hereby is permitted to become effective forthwith.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-8630; Filed, November 18, 1941; 11:42 a. m.]